

# OFFICIAL CODE OF GEORGIA ANNOTATED

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## 2015 Supplement

Including Acts of the 2015 Session of the General Assembly

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The Office of Legislative Counsel

*and*

The Editorial Staff of LexisNexis®



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## Volume 29 2014 Edition

Title 40. Motor Vehicles and Traffic

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Including Annotations to the Georgia Reports  
and the Georgia Appeals Reports

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## **THIS SUPPLEMENT CONTAINS**

### **Statutes:**

All laws specifically codified by the General Assembly of the State of Georgia through the 2015 Regular Session of the General Assembly.

### **Annotations of Judicial Decisions:**

Case annotations reflecting decisions posted to LexisNexis® through April 3, 2015. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

### **Annotations of Attorney General Opinions:**

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through April 3, 2015.

### **Other Annotations:**

#### References to:

Emory Bankruptcy Developments Journal.  
Emory International Law Review.  
Emory Law Journal.  
Georgia Journal of International and Comparative Law.  
Georgia Law Review.  
Georgia State University Law Review.  
John Marshall Law Review.  
Mercer Law Review.  
Georgia State Bar Journal.  
Georgia Journal of Intellectual Property Law.  
American Jurisprudence, Second Edition.  
American Jurisprudence, Pleading and Practice.  
American Jurisprudence, Proof of Facts.  
American Jurisprudence, Trials.  
Corpus Juris Secundum.  
Uniform Laws Annotated.  
American Law Reports, First through Sixth Series.  
American Law Reports, Federal.

### **Tables:**

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2015 Regular Session of the General Assembly.

**Indices:**

A cumulative replacement index to laws codified in the 2015 supplement pamphlets and in the bound volumes of the Code.

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## **TITLE 40**

### **MOTOR VEHICLES AND TRAFFIC**

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2. Registration and Licensing of Motor Vehicles, 40-2-1 through 40-2-168.
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### **CHAPTER 1**

#### **IDENTIFICATION AND REGULATION**

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## ARTICLE 1

### GENERAL PROVISIONS

#### 40-1-1. Definitions.

As used in this title, the term:

(1) "Alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

(3) "All-terrain vehicle" means any motorized vehicle designed for off-road use which is equipped with four low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering.

(4) "Arterial street" means any U.S. or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

(5) "Authorized emergency vehicle" means a motor vehicle belonging to a public utility corporation or operated by the Department of Transportation and designated as an emergency vehicle by the Department of Public Safety; a motor vehicle belonging to a fire department or a certified private vehicle belonging to a volunteer firefighter or a fire-fighting association, partnership, or corporation; an ambulance; or a motor vehicle belonging to a federal, state, or local law enforcement agency, provided such vehicle is in use as an emergency vehicle by one authorized to use it for that purpose.

(6) "Bicycle" means every device propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than 13 inches in diameter.

(6.1) "Bicycle lane" means a portion of the roadway that has been designated by striping, pavement markings, or signage for the exclusive or preferential use of persons operating bicycles. Bicycle lanes shall at a minimum, unless impracticable, be required to meet accepted guidelines, recommendations, and criteria with respect to planning, design, operation, and maintenance as set forth by the American Association of State Highway and Transportation Officials.

(6.2) "Bicycle path" means a right of way under the jurisdiction and control of this state or a local political subdivision thereof designated for use by bicycle riders.

(6.3) "Bicycle trailer" means every device pulled by a bicycle and designed by the manufacturer of such device to carry human passengers.

(7) "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(8) "Business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

(8.01) "Class I all-terrain vehicle" means a motorized, off-highway recreational vehicle 50 inches or less in width with a dry weight of 1,200 pounds or less that travels on three or more nonhighway tires and is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain.

(8.1) "Class II all-terrain vehicle" means a motorized, off-highway recreational vehicle which is not a class I all-terrain vehicle and which is 65 inches or less in width with a dry weight of 2,000 pounds or less that travels on four or more nonhighway tires and is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain.

(8.2) "Class III all-terrain vehicle" means any motor vehicle that:

(A) Weighs more than a class II all-terrain vehicle and less than 8,000 pounds;

(B) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; and

(C) Is actually being operated off a highway.

(8.3) "Commercial motor vehicle" means any self-propelled or towed motor vehicle used on a highway in intrastate and interstate commerce to transport passengers or property when the vehicle:

(A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 lbs.) or more;

(B) Is designed or used to transport more than eight passengers, including the driver, for compensation;

(C) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) Is used to transport material determined to be hazardous by the secretary of the United States Department of Transportation under 49 U.S.C. Section 5103 and transported in a quantity that requires placards under regulations prescribed under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.

(9) "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except only at such points and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

(10) "Crosswalk" means:

(A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(B) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(11) "Dealer" means a person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business in this state.

(12) "Demonstrator" means any motor vehicle which has not been the subject of a sale at retail to the general public but which has been

operated on the roads of this state in the course of a motor vehicle dealer's business.

(13) "Divided highway" means a highway divided into two or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic.

(14) "Driver" means every person who drives or is in actual physical control of a vehicle.

(15) "Driver's license" means any license to operate a motor vehicle issued under the laws of this state.

(15.1) "DUI Alcohol or Drug Use Risk Reduction Program" means a program certified by the Department of Driver Services in accordance with subsection (e) of Code Section 40-5-83.

(15.2) "Electric assisted bicycle" means a device with two or three wheels which has a saddle and fully operative pedals for human propulsion and also has an electric motor. For such a device to be considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 C.F.R. Section 571, et seq., and shall operate in such a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric motor in an electric assisted bicycle shall:

- (A) Have a power output of not more than 1,000 watts;
- (B) Be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and
- (C) Be incapable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.

(15.3) "Electric personal assistive mobility device" or "EPAMD" means a self-balancing, two nontandem wheeled device designed to transport only one person and having an electric propulsion system with average power of 750 watts (1 horsepower) and a maximum speed of less than 20 miles per hour on a paved level surface when powered solely by such propulsion system and ridden by an operator who weighs 170 pounds.

(16) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the

resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(17) "Flammable liquid" means any liquid which has a flash point of 141 degrees Fahrenheit or less.

(17.1) "Former military motor vehicle" means a motor vehicle which operates on the ground, including a trailer, that was manufactured for use in any country's military forces and is maintained to represent its military design, regardless of the vehicle's size, weight, or year of manufacture. Such term shall not include motor vehicles armed for combat or vehicles owned or operated by this state, the United States, or any foreign government.

(17.2) "Golf car" or "golf cart" means any motorized vehicle designed for the purpose and exclusive use of conveying one or more persons and equipment to play the game of golf in an area designated as a golf course. For such a vehicle to be considered a golf car or golf cart, its average speed shall be less than 15 miles per hour (24 kilometers per hour) on a level road surface with a 0.5% grade (0.3 degrees) comprising a straight course composed of a concrete or asphalt surface that is dry and free from loose material or surface contamination with a minimum coefficient of friction of 0.8 between tire and surface.

(18) "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.

(18.1) "Hazardous material" means a substance or material as designated pursuant to the Federal Hazardous Materials Law, 49 U.S.C. Section 5103(a).

(19) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(20) "House trailer" means:

(A) A trailer or semitrailer which is designed, constructed, and equipped as a dwelling place or living abode (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or

(B) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in subparagraph (A) of this paragraph, but which is used instead permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(21) "Implement of husbandry" means a vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

(21.1) "Infant sling" means every device which is designed by the manufacturer to be worn by a person for the purpose of carrying an infant either on the chest or back of the wearer.

(22)(A) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(B) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(C) The junction of an alley with a street or highway shall not constitute an intersection.

(23) "Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

(24) "License" or "license to operate a motor vehicle" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

(A) Any temporary license or instruction permit;

(B) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and

(C) Any nonresident's operating privilege as defined in this Code section.

(24.1) "Lightweight commercial vehicle" means a motor vehicle which does not meet the definition of a commercial motor vehicle and which, in the furtherance of a commercial enterprise:

(A) Is used to transport hazardous materials in a type and quantity for which placards are not required in accordance with the Hazardous Materials Regulations prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, Subpart F,

or compatible rules prescribed by the commissioner of public safety;

(B) Is used to transport property for compensation;

(C) Is used to transport passengers for compensation, other than a taxicab; or

(D) Is a wrecker or tow truck.

(24.2) "Limousine" has the same meaning as provided in paragraph (4) of Code Section 40-1-151.

(25) "Local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the Constitution and laws of this state.

(25.1) "Low-speed vehicle" means any four-wheeled electric vehicle whose top speed attainable in one mile is greater than 20 miles per hour but not greater than 25 miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. Section 571.500 and in effect on January 1, 2001.

(25.2) "Managed lane" means a designated lane or series of designated lanes which utilize tolls payable to the State Road and Tollway Authority and which may use other lane management strategies in order to manage the flow of traffic. Such additional lane management strategies may include, but are not limited to, value pricing, vehicle occupancy requirements, or vehicle type restrictions, or any combination thereof.

(26) "Manufacturer" means a person engaged in the manufacture of vehicles and who has an established place of business in this state. Pertaining to PTVs only, the term "manufacturer" also means any person engaged in the manufacture of vehicles who does business in this state, including but not limited to any person who makes modifications to a vehicle that are not approved by the original equipment manufacturer and which may adversely affect the safe operation and performance of the vehicle.

(26.1) "Manufacturer headquarters" means the headquarters operation of:

(A) A manufacturer as defined in paragraph (26) of this Code section; or

(B) An affiliate of a person engaged in the manufacture of vehicles in this or any other state and which operation is conducted primarily at an established place of business in this state.

(27) "Metal tire" means every tire of which the surface in contact with the highway is wholly or partly of metal or other hard,

nonresilient material. A vehicle shall be considered equipped with metal tires when metal tires are used on two or more wheels.

(28) "Moped" means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

(28.1) "Motor carrier" shall have the same meaning as provided for in Code Section 40-2-1, and the terms "carrier" and "motor carrier" are synonymous.

(29) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, all-terrain vehicle, and moped.

(30) "Motor driven cycle" means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, every bicycle with a motor attached, and every moped.

(31) "Motor home" means every motor vehicle designed, used, or maintained primarily as a mobile dwelling, office, or commercial space.

(32) Reserved.

(33) "Motor vehicle" means every vehicle which is self-propelled other than an electric personal assistive mobility device (EPAMD).

(33.1) "Multipurpose off-highway vehicle" means any motorized vehicle having features specifically intended for utility use and having the following characteristics:

- (A) Has the capability to transport persons or cargo or both;
- (B) Operates between 25 miles per hour (40.2 kilometers per hour) and 50 miles per hour (80.4 kilometers per hour);
- (C) Has an overall width of 80 inches (2,030 millimeters) or less, exclusive of accessories or attachments;
- (D) Is designed to travel on four or more wheels;

- (E) Uses a steering wheel for steering control;
- (F) Contains a nonstraddle seat;
- (G) Has a gross vehicle weight rating of less than 4,000 pounds (1,814 kilograms); and
- (H) Has a minimum cargo capacity of 350 pounds (159 kilograms).

(34) "New motor vehicle" means any motor vehicle which is not a demonstrator and has never been the subject of a sale at retail to the general public.

(35) "Nonresident" means every person who is not a resident of this state.

(36) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle or the use of a vehicle owned by such person in this state.

(37) "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title which are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(38) "Operator" means any person who drives or is in actual physical control of a motor vehicle.

(39) "Owner" means a person, other than a lienholder or security interest holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in or lien by another person but excludes a lessee under a lease not intended as security except as otherwise specifically provided in this title.

(40) "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(41) "Passenger car" means every motor vehicle, except all-terrain vehicles, motorcycles, motor driven cycles, multipurpose off-highway vehicles, personal transportation vehicles, and low-speed vehicles, designed for carrying ten passengers or less and used for the transportation of persons.

(42) "Pedestrian" means any person afoot.

(42.1) "Pedestrian hybrid beacon" means a special type of hybrid beacon used to warn and control traffic at locations without a

traffic-control signal to assist pedestrians in crossing a street or highway at a marked crosswalk.

(43) "Person" means every natural person, firm, partnership, association, corporation, or trust.

(43.1) "Personal transportation vehicle" or "PTV" means:

(A) Any motor vehicle having no fewer than three wheels and an unladen weight of 1,300 pounds or less and which cannot operate at more than 20 miles per hour if such vehicle was authorized to operate on local roads by a local authority prior to January 1, 2012. Such vehicles may also be referred to as "motorized carts" in such local ordinances; and

(B) Any motor vehicle:

(i) With a minimum of four wheels;

(ii) Capable of a maximum level ground speed of less than 20 miles per hour;

(iii) With a maximum gross vehicle unladen or empty weight of 1,375 pounds; and

(iv) Capable of transporting not more than eight persons.

The term does not include mobility aids, including electric personal assistive mobility devices, power wheelchairs, and scooters, that can be used indoors and outdoors for the express purpose of enabling mobility for a person with a disability. The term also does not include any all-terrain vehicle or multipurpose off-highway vehicle.

(43.2) "Personal transportation vehicle path" or "PTV path" means a right of way under the jurisdiction and control of this state or a local political subdivision thereof designated for use by personal transportation vehicle drivers.

(44) "Pneumatic tire" means every tire in which compressed air is designed to support the load. A vehicle shall be considered equipped with pneumatic tires when pneumatic tires are used on all wheels.

(45) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(46) "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(47) "Private road or driveway" means every way or place in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner, but not by other persons.

(48) "Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

(49) "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(50) "Railroad train" means a steam engine or electric engine or other motor, with or without cars coupled thereto, operated upon rails.

(50.01) "Recreational off-highway vehicle" means a motorized vehicle designed for off-road use which is equipped with four or more nonhighway tires and which is 65 inches or less in width.

(50.1) "Regulatory compliance inspection" means the examination of facilities, property, buildings, vehicles, drivers, employees, cargo, packages, records, books, or supporting documentation kept or required to be kept in the normal course of business or enterprise operations.

(51) "Residence district" means the territory contiguous to and including a highway not comprising a business district, when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

(52) "Right of way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(53) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" shall refer to any such roadway separately, but not to all such roadways collectively.

(54) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(55) "School bus" means:

(A) A motor vehicle operated for the transportation of school children to and from school or school activities or for the transportation of children to and from church or church activities. Such term shall not include a motor vehicle with a capacity of 15 persons or less operated for the transportation of school children to and from school activities or for the transportation of children to and from church or church activities if such motor vehicle is not being used for the transportation of school children to and from school; or

(B) A motor vehicle operated by a local transit system which meets the equipment and identification requirements of Code Section 40-8-115; provided, however, that such vehicle shall be a school bus only while transporting school children and no other passengers to or from school.

(56) "Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(56.1) "Shared use path" means a pathway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right of way or within an independent right of way and used by bicycles, pedestrians, manual and motorized wheelchairs, and other authorized motorized and nonmotorized users.

(57) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a railway, and the adjacent property lines, intended for use by pedestrians.

(58) "Solid tires" means tires of rubber or similarly elastic material that do not depend on confined air for the support of the load. A vehicle shall be considered equipped with solid tires when solid tires are used on two or more wheels.

(59) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: ditch-digging apparatus, well-boring apparatus, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and drag lines, and self-propelled cranes and earth-moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(60) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(61) "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada.

(62) "Stop" or "stopping":

(A) When required, means complete cessation from movement; or

(B) When prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(63) "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(63.1) "Taxicab" means a motor vehicle for hire which conveys passengers between locations of their choice and is a mode of public transportation for a single passenger or small group for a fee. Such term shall also mean taxi or cab, but not a bus or school bus, limousine, passenger car, or commercial motor vehicle.

(64) "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic-control device, when such signs or devices are erected as provided in this title.

(65) "Tractor" means any self-propelled vehicle designed for use as a traveling power plant or for drawing other vehicles but having no provision for carrying loads independently.

(66) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

(67) "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(68) "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(69) "Tripper service" means regularly scheduled mass transportation service which is open to the fare-paying public but which is also designed or modified to accommodate the needs of elementary or secondary school students and school personnel.

(70) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(71) "Truck camper" means any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space.

(72) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(73) "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

(74) "Used motor vehicle" means any motor vehicle which has been the subject of a sale at retail to the general public.

(75) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(76) "Wrecker" means a vehicle designed, equipped, or used to tow or carry other motor vehicles by means of a hoist, crane, sling, lift, or roll-back or slide back platform, by a mechanism of a like or similar character, or by any combination thereof, and the terms "tow truck" and "wrecker" are synonymous. (Ga. L. 1927, p. 226, § 2; Code 1933, § 68-101; Ga. L. 1953, Nov.-Dec. Sess., p. 556, §§ 1-9, 11, 13-21; Ga. L. 1966, p. 183, § 1; Ga. L. 1970, p. 586, § 1; Ga. L. 1973, p. 595, § 1; Ga. L. 1973, p. 598, § 1; Code 1933, § 68A-101, enacted by Ga. L. 1974, p. 633, § 1; Ga. L. 1978, p. 1483, § 1; Ga. L. 1978, p. 2241, §§ 1, 3, 4; Ga. L. 1982, p. 3, § 40; Ga. L. 1983, p. 633, § 1; Ga. L. 1988, p. 691, §§ 1, 2; Ga. L. 1988, p. 1893, § 1; Ga. L. 1989, p. 1792, § 1; Ga. L. 1990, p. 2048, § 1; Ga. L. 1993, p. 518, § 1; Ga. L. 1994, p. 97, § 40; Ga. L. 1996, p. 236, § 1; Ga. L. 1997, p. 419, § 1; Ga. L. 1999, p. 334, § 1; Ga. L. 2001, p. 4, § 40; Ga. L. 2002, p. 506, § 2; Ga. L. 2002, p. 512, §§ 2, 3; Ga. L. 2002, p. 660, § 4; Ga. L. 2002, p. 1259, § 11; Ga. L. 2002, p. 1378, § 1; Ga. L. 2003, p. 308, §§ 1, 2, 3; Ga. L. 2004, p. 67, § 1; Ga. L. 2004, p. 746, § 1; Ga. L. 2006, p. 428, § 1/HB 654; Ga. L. 2007, p. 652, § 1/HB 518; Ga. L. 2010, p. 143, § 1/HB 1005; Ga. L. 2010, p. 442, § 4/HB 1174; Ga. L. 2011, p. 247, § 1/SB 240; Ga. L. 2011, p. 426, § 1/HB 101; Ga. L. 2011, p. 479, §§ 6, 7, 8/HB 112; Ga.

L. 2012, p. 726, §§ 1, 2, 3/HB 795; Ga. L. 2013, p. 141, § 40/HB 79; Ga. L. 2014, p. 409, § 1/SB 392; Ga. L. 2014, p. 710, § 1-5/SB 298; Ga. L. 2014, p. 745, § 1/HB 877; Ga. L. 2015, p. 5, § 40/HB 90; Ga. L. 2015, p. 60, § 4-1/SB 100; Ga. L. 2015, p. 1058, § 4/SB 125; Ga. L. 2015, p. 1219, § 1/HB 202.)

**The 2015 amendments.** — The first 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, redesignated former paragraphs (15.3), (15.5), and (15.6) as present paragraphs (15.1), (15.2), and (15.3), respectively. The second 2015 amendment, effective July 1, 2015, substituted “4,536 kg” for “4,537 kg” in subparagraph (8.3)(A). See editor’s note for applicability. The third 2015 amendment,

effective May 6, 2015, added paragraph (25.2). The fourth 2015 amendment, effective May 6, 2015, added paragraph (26.1).

**Editor’s notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

## JUDICIAL DECISIONS

### ANALYSIS

#### GENERAL CONSIDERATION

##### General Consideration

**Parking restrictions do not apply in business districts.** — Georgia Court of Appeals concludes that the parking restrictions in O.C.G.A. § 40-6-202 do not apply within a business district and because a business district is comprised of

the territory contiguous to and including a highway, the parking restrictions in § 40-6-202 cannot be read to apply to roadways within areas meeting the criteria in O.C.G.A. § 40-1-1(8). *Granger v. MST Transp., LLC*, 329 Ga. App. 268, 764 S.E.2d 872 (2014).

## 40-1-8. Definitions; safe operations of motor carriers and commercial motor vehicles; civil penalties; operation of out-of-service vehicles; criminal penalties.

(a) As used in this Code section, the term:

- (1) “Commissioner” means the commissioner of public safety.
- (2) “Department” means the Department of Public Safety.
- (3) “Present regulations” means the regulations promulgated under 49 C.F.R. in force and effect on January 1, 2015.

(b) The commissioner shall have the authority to promulgate rules and regulations for the safe operation of motor carriers, the safe operation of commercial motor vehicles and drivers, and the safe transportation of hazardous materials. Any such rules and regulations promulgated or deemed necessary by the commissioner shall include, but are not limited to, the following:

- (1) Every commercial motor vehicle and all parts thereof shall be maintained in a safe condition at all times; and the lights, brakes,

equipment, and all other parts or accessories shall meet such safety requirements designated by present regulations under Parts 393 and 396;

(2) Every driver employed to operate a motor vehicle for a motor carrier shall:

(A) Be at least 18 years of age to operate a motor vehicle for a motor carrier intrastate and at least 21 years of age to operate a motor vehicle for a motor carrier interstate;

(B) Meet the qualification requirements the commissioner shall from time to time promulgate;

(C) Be of temperate habits and good moral character;

(D) Possess a valid driver's license;

(E) Not use or possess prohibited drugs or alcohol while on duty; and

(F) Be fully competent and sufficiently rested to operate the motor vehicle under his or her charge;

(3) Accidents arising from or in connection with the operation of commercial motor vehicles shall be reported to the commissioner of transportation in such detail and in such manner as the commissioner of transportation may require;

(4) The commissioner shall require each commercial motor vehicle to have attached such distinctive markings as shall be adopted by the commissioner. Such identification requirements shall comply with the applicable provisions of the federal Unified Carrier Registration Act of 2005; and

(5) The commissioner shall provide distinctive rules for the transportation of unmanufactured forest products in intrastate commerce to be designated the "Georgia Forest Products Trucking Rules."

(c)(1) Regulations governing the safe operations of motor carriers, commercial motor vehicles and drivers, and the safe transportation of hazardous materials may be adopted by administrative order, including, but not limited to, by referencing compatible federal regulations or standards without compliance with the procedural requirements of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," provided that such federal regulations or standards shall be maintained on file by the department and made available for inspection and copying by the public, by means including, but not limited to, posting on the department's Internet site. The commissioner may comply with the filing requirements of Chapter 13 of Title 50 by filing with the office of the Secretary of State the name and designation of

such rules, regulations, standards, and orders. The courts shall take judicial notice of rules, regulations, standards, or orders so adopted or published.

(2) Rules, regulations, or orders previously adopted, issued, or promulgated pursuant to the provisions of Chapter 7 or 11 of Title 46 in effect on June 30, 2011, shall remain in full force and effect until such time as the commissioner of public safety adopts, issues, or promulgates new rules, regulations, or orders pursuant to the provisions of this Code section.

(d)(1) The commissioner may, pursuant to rule or regulation, specify and impose civil monetary penalties for violations of laws, rules, and regulations relating to driver and motor carrier safety and transportation of hazardous materials. Except as may be hereafter authorized by law, the maximum amount of any such monetary penalty shall not exceed the maximum penalty authorized by law or rule or regulation for the same violation immediately prior to July 1, 2005.

(2) A cause of action for the collection of a penalty imposed pursuant to this subsection may be brought in the superior court of the county where the principal place of business of the penalized company is located or in the superior court of the county where the action giving rise to the penalty occurred.

(e) The commissioner is authorized to adopt such rules and orders as he or she may deem necessary in the enforcement of this Code section. Such rules and orders shall have the same dignity and standing as if such rules and orders were specifically provided in this Code section. The commissioner is authorized to establish such exceptions or exemptions from the requirements of this Code section, as he or she shall deem appropriate, consistent with any federal program requirements, and consistent with the protection of the public health, safety, and welfare.

(f)(1) The commissioner may designate members of the department, pursuant to Article 5 of Chapter 2 of Title 35, to perform regulatory compliance inspections. Members of county, municipal, campus, and other state agencies may be designated by the commissioner to perform regulatory compliance inspections only of vehicles, drivers, and cargo in operation, and may only enforce the provisions of rules and regulations promulgated under this Code section or Article 2 of this chapter subject to the provisions of a valid agreement between the commissioner and the county, municipal, campus, or other state agency.

(2) Unless designated and authorized by the commissioner, no members of county, municipal, campus, and other state agencies may perform regulatory compliance inspections.

(g) No person shall drive or operate, or cause the operation of, a vehicle in violation of an out-of-service order. As used in this subsection, the term "out-of-service order" means a temporary prohibition against operating as a motor carrier or driving or moving a vehicle, freight container or any cargo thereon, or any package containing a hazardous material.

(h) Unless otherwise provided by law, a motor carrier or operator of a commercial motor vehicle shall comply with present regulations as follows:

(1) Motor carrier safety standards found in 49 C.F.R. Part 391;

(2) Motor carrier safety standards found in 49 C.F.R. Part 392, including but not limited to the seatbelt usage requirements in 49 C.F.R. Section 392.16; and

(3) Hours of service and record of duty status requirements of 49 C.F.R. Part 395.

(i) A person failing to comply with the requirements of paragraph (2) of subsection (h) of this Code section shall be guilty of the misdemeanor offense of failure to wear a seat safety belt while operating a commercial motor vehicle and, upon conviction thereof, shall be fined not more than \$50.00 but shall not be subject to imprisonment. The costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. No points shall be added pursuant to Code Section 40-5-57 and no additional fines or penalties shall be imposed.

(j) Every officer, agent, or employee of any corporation and every person who violates or fails to comply with this Code section or any order, rule, or regulation adopted pursuant to this Code section, or who procures, aids, or abets a violation of this Code section or such rule or regulation, shall be guilty of a misdemeanor. Misdemeanor violations of this Code section may be prosecuted, handled, and disposed of in the manner provided for by Chapter 13 of this title. (Code 1981, § 40-1-8, enacted by Ga. L. 2011, p. 479, § 9/HB 112; Ga. L. 2013, p. 838, § 1/HB 323; Ga. L. 2014, p. 807, § 2/HB 753; Ga. L. 2015, p. 60, § 4-2/SB 100.)

**The 2015 amendment**, effective July 1, 2015, substituted "2015" for "2014" in paragraph (a)(3). See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General

Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

ARTICLE 3  
MOTOR CARRIERS

PART 3

GEORGIA LIMOUSINE CARRIERS

**40-1-158. Limousine chauffeur authorization and license endorsement.**

Pursuant to rules and regulations prescribed by the commissioner of driver services, each chauffeur employed by a limousine carrier shall secure from the Department of Driver Services a for-hire license endorsement or private background check certification pursuant to Code Section 40-5-39. (Code 1981, § 40-1-158, enacted by Ga. L. 2012, p. 580, § 1/HB 865; Ga. L. 2015, p. 1262, § 2/HB 225.)

**The 2015 amendment.** effective July 1, 2015, substituted “for-hire license endorsement or private background check certification pursuant to Code Section

40-5-39” for “limousine chauffeur authorization and license endorsement” at the end of this Code section.

**40-1-166. Commercial indemnity and liability insurance.**

Each limousine carrier shall obtain and maintain commercial indemnity and liability insurance with an insurance company licensed under Title 33 or through a surplus line broker licensed under Title 33, which policy shall provide for the protection of passengers and property carried and of the public against injury proximately caused by the negligence of the limousine carrier, its servants, and its agents. The minimum amount of such insurance shall be:

(1) For capacity of 12 passengers or less, \$300,000.00 for bodily injuries to or death of all persons in any one accident with a maximum of \$100,000.00 for bodily injuries to or death of one person, and \$50,000.00 for loss of damage in any one accident to property of others, excluding cargo; or

(2) For capacity of more than 12 passengers, \$500,000.00 for bodily injuries to or death of all persons in any one accident with a maximum of \$100,000.00 for bodily injuries to or death of one person, and \$50,000.00 for loss of damage in any one accident to property of others, excluding cargo. (Code 1981, § 40-1-166, enacted by Ga. L. 2012, p. 580, § 1/HB 865; Ga. L. 2015, p. 1262, § 2.1/HB 225.)

**The 2015 amendment,** effective May 6, 2015, substituted “licensed under Title 33 or through a surplus line broker li-

censed under Title 33,” for “authorized to do business in this state” in the introductory paragraph of this Code section.

## PART 4

## RIDE SHARE NETWORK SERVICES AND TRANSPORTATION REFERRAL SERVICES

**Effective date.** — This part became effective July 1, 2015.

**40-1-190. Definitions.**

As used in this part, the term:

(1) “Limousine carrier” means any limousine company or provider which is licensed with the state pursuant to paragraph (5) of Code Section 40-1-151.

(2) “Metering device” means an instrument or device which is utilized for the purpose of calculating for-hire fares based upon distance, time, mileage, and administrative fees and which is not a taximeter.

(3) “Ride share driver” means an individual who uses his or her personal passenger car, as defined in paragraph (41) of Code Section 40-1-1, to provide transportation for passengers arranged through a ride share network service.

(4) “Ride share network service” means any person or entity that uses a digital network or Internet network to connect passengers to ride share drivers for the purpose of prearranged transportation for hire or for donation. The term “ride share network service” shall not include any corporate sponsored vanpool or exempt rideshare as such terms are defined in Code Section 40-1-100, provided that such corporate sponsored vanpool or exempt rideshare is not operated for the purpose of generating a profit.

(5) “Taxi service” means any taxicab company or provider which utilizes a motor vehicle or similar vehicle, device, machine, or conveyance to transport passengers; uses a taximeter; and is authorized to provide taxicab services pursuant to an ordinance of a local government in this state.

(6) “Taximeter” means an instrument or device approved by the applicable local government which is utilized by a taxi service for the purpose of calculating fares based upon distance, time, and mileage.

(7) “Transportation referral service” means any person or entity that books, refers clients to, collects money for, or advertises transportation services provided by a limousine carrier or taxi service by means of a telephone, through cellular telephone software, through the Internet, in person, by written instrument, by any person, or by any other means, and does not own or lease any motor vehicle

required to be registered with the Department of Public Safety as a limousine carrier or a taxi service. A transportation referral service shall not include emergency or nonemergency medical transports.

(8) "Transportation referral service provider" means any person or entity that books, refers clients to, collects money for, or advertises transportation services provided by a limousine carrier or taxi service by means of a telephone, through cellular telephone software, through the Internet, in person, by written instrument, by any person, or by any other means and owns or leases one or more motor vehicles required to be registered with the Department of Public Safety as a limousine carrier or a local government in this state as a taxi service. A transportation referral service provider shall not include emergency or nonemergency medical transports. (Code 1981, § 40-1-190, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

**40-1-191. Legislative findings; preemption; local governing authorities authorized to provide regulation and establish fees consistent with this part.**

The General Assembly finds that it is in the public interest to provide uniform administration and parity among ride share network services, transportation referral services, and transportation referral service providers, including taxi services, that operate in this state for the safety and protection of the public. The General Assembly fully occupies and preempts the entire field of administration and regulation over ride share network services, transportation referral services, transportation referral service providers, and taxi services as governed by this part; provided, however, that the governing authority of any county or municipal airport shall be authorized to regulate any ride share network service, transportation referral service, transportation referral service provider, and taxi service consistent with the process used for limousine carriers, as set forth in Code Section 40-1-162, who are doing business at any such airport and may establish fees as part of such regulation process; provided, further, that such fees shall not exceed the airport's approximate cost of permitting and regulating ride share network services, transportation referral services, transportation referral service providers, and taxi services; and provided, further, that such governing authorities of such airports shall accept a for-hire license endorsement or private background check certification pursuant to Code Section 40-5-39 as adequate evidence of sufficient criminal background investigations and shall not require any fee for any further criminal background investigation; and provided, further, that local governments may maintain certificates of public necessity and convenience and medallion requirements and company requirements for taxi services as provided in this part and may establish maximum fares for

taxi services. The list of ride share network services, transportation referral services, transportation referral service providers, and taxi services on the website of the department shall be sufficient evidence that such services have licenses issued by the department. (Code 1981, § 40-1-191, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

**40-1-192. Transportation referral service registration requirement; licensure; additional requirements.**

(a) A transportation referral service or transportation referral service provider that only refers business to limousine carriers and taxi services that are licensed or registered as transportation referral service providers shall be exempt from registration under this Code section.

(b) Each transportation referral service provider doing business, operating, or providing transportation services in this state shall register with the department. Upon receipt of registration by the department, the department shall issue a license to such transportation referral service provider which shall be renewed on an annual basis. The department may charge a fee for such license and registration not to exceed \$100.00. Limousine carriers, as a part of the licensure and permitting process for limousine carriers, shall be registered and licensed as a transportation referral service provider under this part. A transportation referral service provider that receives referrals from a transportation referral service or a transportation referral service provider shall be required to disclose to the department that it is receiving referrals from such transportation referral service or transportation referral service provider; provided, however, that the limousine carrier or taxi service shall be required to comply with the requirements of this part.

(c) Each transportation referral service provider doing business, operating, or providing transportation services in this state shall file and keep current monthly with the department a list of all limousine carriers and taxi services which it utilizes to provide transportation services in this state. Such lists shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50.

(d) Each transportation referral service provider doing business, operating, or providing transportation services in this state shall:

(1) Either obtain directly or determine that each taxi service to which it refers business possesses either a certificate of public necessity and convenience or medallion authorizing the provision of taxicab services in such local government if the certificate of public necessity and convenience or medallion is required by an ordinance of the local government where such taxi service is to be provided;

(2) Either obtain directly or determine that each taxi service to which it refers business is registered with the department and possesses and maintains a permit authorizing the provision of taxicab services in such local government if a company permit is required by an ordinance of the local government where such taxi service is to be provided;

(3) Either obtain directly or determine that each limousine carrier to which it refers business is properly and currently registered and licensed pursuant to Part 3 of this article;

(4) Take all necessary steps to determine that:

(A) Any driver either directly employed by or contracted with a limousine carrier which the limousine carrier contracts with or utilizes for the provision of transportation services in this state possesses and maintains any required permits or licenses required by the federal government or this state; and

(B) Any driver either directly employed by or contracted with a taxi service which the taxi service contracts with or utilizes for the provision of transportation services in this state possesses and maintains any required permits or licenses required by the federal government or the local government where the transportation services are to be provided;

(5) Ensure that each driver utilized by such transportation referral service provider, whether such driver is employed directly by the transportation referral service provider or by a limousine carrier or taxi service which the transportation referral service provider contracts with or utilizes for the provision of transportation services in this state, has a current for-hire license endorsement or current private background check certification pursuant to Code Section 40-5-39;

(6) Have a zero tolerance policy with regard to the use of drugs or alcohol while on duty in place for drivers utilized by such limousine carrier or taxi service in the provision of transportation services, whether such driver is employed directly by the transportation referral service provider or by a limousine carrier or taxi service which the transportation referral service provider contracts with or utilizes for the provision of transportation services in this state;

(7) Shall ensure that each limousine carrier with which such transportation referral service provider contracts or utilizes for the provision of transportation services in this state has the commercial indemnity and liability insurance required by Code Section 40-1-166 or each taxi service with which such transportation referral service provider contracts or utilizes for the provision of transportation

services in this state has the minimum amount of commercial liability insurance prescribed by state law;

(8) Have, as to taxi services, complied with or ensured that any taxi service which it contracts with or utilizes for the provision of transportation services complies with any fare structure or regulation prescribed by ordinance of the local government where such taxi service is to be provided; provided, however, that any fares specified in local ordinances shall be the maximum fare which may be charged but shall not prohibit a taxi service from charging lower fares;

(9) Have complied with or determined that the limousine carrier or taxi service with which the provider contracts with or utilizes for the provision of transportation services in this state is in compliance with any and all other applicable requirements prescribed by the laws of the state, the rules and regulations of the department, and the ordinances of local governments where such transportation services are provided; and

(10) Comply with the provisions of Code Section 40-8-7. No additional vehicle inspections shall be required for taxi services or limousine carriers.

(e) Failure to register according to the provisions of this Code section shall be a misdemeanor. (Code 1981, § 40-1-192, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

**40-1-193. Ride share network service registration requirement; licensure; required list of all ride share drivers; additional requirements for ride share network service businesses and drivers.**

(a) Each ride share network service doing business or operating in this state shall register with the department. Upon receipt of registration by the department, the department shall issue a license to such ride share network service which shall be renewed on an annual basis. The department may charge a fee for such license and registration not to exceed \$100.00.

(b) Each ride share network service doing business or operating in this state shall maintain a current list of all ride share drivers who are enrolled in its network in this state. Such lists shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50 but shall be made available for inspection by law enforcement officers and representatives of other government agencies upon request to ascertain compliance with this title.

(c) Each ride share network service doing business or operating in this state shall:

- (1) Take all necessary steps to determine that each driver contracted with such ride share network service possesses and maintains any required permits or licenses required by the federal government or this state;
- (2) Ensure that each driver utilized by such ride share network service, whether such driver is employed directly by the ride share network service or operates as an independent contractor, has a current for-hire license endorsement or current private background check certification pursuant to Code Section 40-5-39;
- (3) Have a zero tolerance policy with regard to the use of drugs or alcohol while on duty in place for drivers contracted with such ride share network service;
- (4) Have for each ride share driver contracted with such ride share network service in this state insurance coverage in effect with respect to personal injury liability, property damage liability, and personal injury protection liability benefits available to drivers, passengers, pedestrians, and others in the same coverage amounts as required by law; and
- (5) Comply with the provisions of Code Section 40-8-7. No vehicle inspections shall be required for vehicles used by ride share drivers.

(d) Each ride share driver utilized by such ride share network service, whether such driver is employed directly by the ride share network service or operates as an independent contractor, shall maintain on his or her smartphone digital identification containing the following information while active on the ride share network service's digital network:

- (1) The name and photograph of the driver;
- (2) The make and model of the motor vehicle being driven;
- (3) The license plate number of the motor vehicle being driven;
- (4) Certificates of insurance for the motor vehicle being driven; and
- (5) Such other information as may be required by the Department of Public Safety.

Upon reasonable suspicion of a law enforcement officer of improper operation by a ride share driver, the ride share driver, upon request, shall provide the law enforcement officer with access to the smartphone containing the digital information required by this subsection and the electronic record of the trips sufficient to establish that the trip in question was prearranged through digital dispatch of the ride share network service. The ride share driver shall not be required to relinquish custody of the smartphone containing the digital information

required by this subsection and the electronic record of the trips arranged through digital dispatch of the ride share network service.

(e) A violation of this Code section shall be a misdemeanor. (Code 1981, § 40-1-193, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

**40-1-194. Prohibition on contracting with carriers, drivers, or taxi services not properly licensed or insured; penalties for violations.**

(a)(1)(A) No transportation referral service or transportation referral service provider subject to this part shall contract with, utilize, or refer individuals or entities to limousine carriers that are not properly licensed by this state or are not properly insured under state law.

(B) No ride share network service subject to this part shall contract with, utilize, or refer individuals or entities to ride share drivers who are not properly licensed by this state or are not properly insured under state law.

(2) No transportation referral service or transportation referral service provider subject to this part shall contract with, utilize, or refer individuals or entities to taxi services that are not registered with the department and properly licensed by the applicable political subdivision of this state, are not properly insured under local law, or use drivers that are not properly licensed under state and local law to carry passengers for hire.

(b)(1)(A) No person who is not licensed under the laws of this state to provide limousine services shall contract with or accept referrals from a transportation referral service, transportation referral service provider, or ride share network service for transportation services. This paragraph shall not apply to passengers.

(B) No ride share driver who does not have an appropriate driver's license and either a for-hire endorsement or current private background check certification pursuant to Code Section 40-5-39 shall contract with or accept referrals from a transportation referral service, transportation referral service provider, or ride share network service for transportation services.

(2) No person who does not have the licensing required by the appropriate local government of this state to provide taxi services shall contract with or accept referrals from a transportation referral service or transportation referral service provider for transportation services. This paragraph shall not apply to passengers.

(c)(1) A transportation referral service that violates subsection (a) of this Code section shall be guilty of a misdemeanor.

(2) A transportation referral service provider or ride share network service that violates subsection (a) of this Code section shall be guilty of a misdemeanor and additionally shall be subject to having such provider's or service's registration suspended or revoked by the department.

(d) A person who violates subsection (b) of this Code section shall be guilty of a misdemeanor and additionally may be subject to a suspension for one year or revocation of such person's driver's license. (Code 1981, § 40-1-194, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

**40-1-195. Inclusion of license number issued by department in advertising; requirements for signage or emblem approved by Department of Public Safety.**

(a) Each taxi service, transportation referral service, transportation referral service provider, and ride share network service doing business, operating, or providing transportation services in this state shall include its license number issued by the department in any advertising in this state; provided, however, that this Code section shall not apply to Internet advertisements. Limousine carriers which register as transportation referral service providers under this part shall be subject to the advertising requirements of this Code Section and not the provisions of Code Section 40-1-165. Failure to provide such license number shall result in the imposition of a civil penalty not to exceed \$5,000.00 for each violation.

(b) Each ride share driver shall display a consistent and distinctive signage or emblem that is approved by the Department of Public Safety on such ride share driver's vehicle at all times while the ride share driver is active on the ride share network service's digital network. The signage or emblem shall be:

- (1) Sufficiently large and color contrasted to be readable during daylight hours from a distance of at least 50 feet;
- (2) Reflective, illuminated, or otherwise visible in darkness; and
- (3) Sufficient to identify a vehicle as being associated with the ride share network service with which the ride share driver is affiliated.

Any person who violates this subsection shall be guilty of a misdemeanor. (Code 1981, § 40-1-195, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

**40-1-196. Rates charged.**

(a) Rates for taxi services set by a local government shall constitute the maximum fare which may be charged but shall not prohibit a taxi

service from charging lower fares. Transportation services provided by taxi services and arranged by a transportation referral service or transportation referral service provider doing business in this state shall be billed in accordance with the fare rates prescribed by the local government where such taxi services are to be provided. The use of Internet or cellular telephone software to calculate rates shall not be permitted unless such software complies with and conforms to the weights and measures standards of the local government that licenses such taxi service.

(b) Transportation services provided by limousine carriers and arranged by a transportation referral service or transportation referral service provider shall only be billed in accordance with the rates of such limousine carriers on an hourly basis or upon one or more of the following factors: distance, flat fee, base fee, waiting time, cancellation fee, stop fee, event pricing, demand pricing, or time. The charge for such transportation services may be calculated by the use of a metering device in or affixed to the motor vehicle.

(c) A ride share driver contracted with a ride share network service may offer transportation services at no charge, suggest a donation, or charge a fare. If a ride share driver contracted with a ride share network service charges a fare, such fare shall be calculated based upon one or more of the following factors: distance, flat fee, base fee, waiting time, cancellation fee, stop fee, event pricing, demand pricing, or time. The fare may be calculated by the use of a metering device in or affixed to the motor vehicle.

(d) Each transportation referral service, transportation referral service provider, and ride share network service shall make available to the person being transported prior to receiving transportation services either the amount of the charge for such services or the rates under which the charge will be determined.

(e) A violation of this Code section shall be a misdemeanor. (Code 1981, § 40-1-196, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

#### **40-1-197. Promulgation of rules and regulations.**

The department is authorized to promulgate such rules and regulations as the department shall find necessary to implement the provisions of this part. (Code 1981, § 40-1-197, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

#### **40-1-198. Requirement to maintain current list of drivers.**

(a) Each transportation referral service provider shall maintain a current list of all drivers that such provider employs directly or as

independent contractors in this state. Such lists shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50 but shall be made available for inspection by law enforcement officers and representatives of other government agencies upon request to ascertain compliance with this title.

(b) A violation of this Code section shall be punished by the imposition of a civil penalty not to exceed \$5,000.00 for each violation. (Code 1981, § 40-1-198, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

#### 40-1-199. Waivers.

A waiver of any rights with regard to personal injuries as the result of any transportation services provided by such ride share network service, transportation referral service, transportation referral service provider, limousine carrier, or taxi service by any person utilizing the services of a ride share network service, transportation referral service, transportation referral service provider, limousine carrier, or taxi service in this state shall not be valid unless such person is given written or electronic notice of such waiver prior to receiving such services and knowingly and willfully agrees to such waiver. (Code 1981, § 40-1-199, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

#### 40-1-200. Inapplicability to equine drawn or other nonmotorized vehicles.

This part shall not be applicable to equine drawn vehicles or nonmotorized vehicles. (Code 1981, § 40-1-200, enacted by Ga. L. 2015, p. 1262, § 3/HB 225.)

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## CHAPTER 2

### REGISTRATION AND LICENSING OF MOTOR VEHICLES

Article 1 General Provisions	Sec.	Sec.
Sec. 40-2-1. Definitions.		quirements; extension of registration period; penalties; two-year registration option for new motor vehicles.
Article 2 Registration and Licensing Generally	40-2-38.	Registration and licensing of manufacturers, distributors, and dealers; dealer plates; calculation of registration requirements.
40-2-20. Registration and license re-		

### Article 3

# Prestige License Plates and Special Plates for Certain Persons and Vehicles

Sec.

- 40-2-63.1. Special license plates for public safety first responders injured in line of duty.
- 40-2-69. Free license plates and revalidation decals for disabled veterans.
- 40-2-81. Special license plates for members of the Georgia State Defense Force.
- 40-2-85.1. Special and distinctive license plates for veterans.
- 40-2-85.3. Special license plates honoring family members of service members killed in action.
- 40-2-86. Special license plates promoting certain beneficial projects and supporting certain worthy agencies, funds, or non-profit corporations with proceeds disbursed to the general fund and the agency, fund, or nonprofit corporation.
- 40-2-86.1. Special license plates promoting certain beneficial projects and supporting certain worthy agencies, funds, or non-profit corporations; special license plates for qualified

Sec.

motor vehicles or drivers with proceeds deposited in the general fund.

## Article 6A

# Administration of Federal Unified Carrier Registration Act of 2005

40-2-140. Department of Public Safety to administer provisions of this article; registration and fee requirements; evidence of continuing education; requirements for obtaining operating authority; collection, retention, and utilization of fees; regulatory compliance inspections; penalties.

## Article 7

## **Motor Vehicle License Fees and Classes**

- 40-2-151. Annual license fees for operation of vehicles; fee for permanent licensing of certain trailers; fee for new passenger car.
- 40-2-151.1. Highway impact fees for heavy vehicles; use of funds.
- 40-2-152. Fees for apportionable vehicles; restricted license plates for vehicles.
- 40-2-168. (For effective date, see note.) Registration and licensing of taxicabs and limousines.

## ARTICLE 1

## **GENERAL PROVISIONS**

### 40-2-1. Definitions.

As used in this chapter, the term:

(1) “Cancellation of vehicle registration” means the annulment or termination by formal action of the department of a person’s vehicle registration because of an error or defect in the registration or because the person is no longer entitled to such registration. The cancellation of registration is without prejudice and application for a new registration may be made at any time after such cancellation.

(2) "Commissioner" means the state revenue commissioner.

(3) "Department" means the Department of Revenue.

(4) "For-hire intrastate motor carrier" means an entity engaged in the transportation of goods or ten or more passengers for compensation wholly within the boundaries of this state.

(5) "Intrastate motor carrier" means any self-propelled or towed motor vehicle operated by an entity that is used on a highway in intrastate commerce to transport passengers or property and:

(A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 lbs.) or more, whichever is greater;

(B) Is designed or used to transport more than ten passengers, including the driver, and is not used to transport passengers for compensation; or

(C) Is used to transport material found by the United States Secretary of Transportation to be hazardous pursuant to 49 U.S.C. Section 5103 and is transported in any quantity.

(6) "Motor carrier" means:

(A) Any entity subject to the terms of the Unified Carrier Registration Agreement pursuant to 49 U.S.C. Section 14504a whether engaged in interstate or intrastate commerce, or both; or

(B) Any entity defined by the commissioner or commissioner of public safety who operates or controls commercial motor vehicles as defined in 49 C.F.R. Section 390.5 or this chapter whether operated in interstate or intrastate commerce, or both.

(7) "Operating authority" means the registration required by 49 U.S.C. Section 13902, 49 C.F.R. Part 365, 49 C.F.R. Part 368, and 49 C.F.R. Section 392.9a.

(8) "Regulatory compliance inspection" means the examination of facilities, property, buildings, vehicles, drivers, employees, cargo, packages, records, books, or supporting documentation kept or required to be kept in the normal course of motor carrier business or enterprise operations.

(9) "Resident" means a person who has a permanent home or domicile in Georgia and to which, having been absent, he or she has the intention of returning. For the purposes of this chapter, there is a rebuttable presumption that any person who, except for infrequent, brief absences, has been present in the state for 30 or more days is a resident.

(10) "Revocation of vehicle registration" means the termination by formal action of the department of a vehicle registration, which registration shall not be subject to renewal or reinstatement, except

that an application for a new registration may be presented and acted upon by the department after the expiration of the applicable period of time prescribed by law.

(11) "Suspension of vehicle registration" means the temporary withdrawal by formal action of the department of a vehicle registration, which temporary withdrawal shall be for a period specifically designated by the department. (Code 1981, § 40-2-1; Ga. L. 1990, p. 2048, § 2; Ga. L. 1991, p. 327, § 1; Ga. L. 2000, p. 951, § 3-1; Ga. L. 2002, p. 1024, § 1; Ga. L. 2005, p. 334, § 14-1/HB 501; Ga. L. 2009, p. 629, § 1/HB 57; Ga. L. 2012, p. 580, § 8/HB 865; Ga. L. 2015, p. 60, § 4-3/SB 100.)

**The 2015 amendment**, effective July 1, 2015, added paragraphs (4) and (5); and redesignated former paragraphs (4) through (9) as present paragraphs (6) through (11), respectively. See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60,

§ 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

## ARTICLE 2

### REGISTRATION AND LICENSING GENERALLY

#### 40-2-20. Registration and license requirements; extension of registration period; penalties; two-year registration option for new motor vehicles.

(a)(1)(A) Except as provided in subsections (b) and (d) of this Code section and subsection (a) of Code Section 40-2-47, every owner of a motor vehicle, including a tractor or motorcycle, and every owner of a trailer shall, during the owner's registration period in each year, register such vehicle as provided in this chapter and obtain a license to operate it for the 12 month period until such person's next registration period.

(B)(i) The purchaser or other transferee owner of every new or used motor vehicle, including tractors and motorcycles, or trailer shall register such vehicle as provided in Code Section 40-2-8 and obtain or transfer as provided in this chapter a license to operate it for the period remaining until such person's next registration period which immediately follows such initial registration period, without regard to whether such next registration period occurs in the same calendar year as the initial registration period or how soon such next registration period follows the initial registration period; provided, however, that this registration and licensing requirement does not apply to a dealer which acquires a new or used motor vehicle and holds it for resale. The

commissioner may provide by rule or regulation for one 30 day extension of such initial registration period which may be granted by the county tag agent if the transferor has not provided such purchaser or other transferee owner with a title to the motor vehicle more than five business days prior to the expiration of such initial registration period. The county tag agent shall grant an extension of the initial registration period when the transferor, purchaser, or transferee can demonstrate by affidavit in a form provided by the commissioner that title has not been provided to the purchaser or transferee due to the failure of a security interest or lienholder to timely release a security interest or lien in accordance with Code Section 40-3-56.

(ii) No person, company, or corporation, including, but not limited to, used motor vehicle dealers and auto auctions, shall sell or transfer a motor vehicle without providing to the purchaser or transferee of such motor vehicle the last certificate of registration on such vehicle at the time of such sale or transfer; provided, however, that in the case of a salvage motor vehicle or a motor vehicle which is stolen but subsequently recovered by the insurance company after payment of a total loss claim, the salvage dealer or insurer, respectively, shall not be required to provide the certificate of registration for such vehicle; and provided, further, that in the case of a repossessed motor vehicle or a court ordered sale or other involuntary transfer, the lienholder or the transferor shall not be required to provide the certificate of registration for such vehicle but shall, prior to the sale of such vehicle, surrender the license plate of such vehicle to the commissioner or the county tag agent by personal delivery or by certified mail or statutory overnight delivery for cancellation.

(C) The county tag agent may issue a temporary operating permit for any vehicle that fails to comply with applicable federal emission standards, provided that the owner of such vehicle has provided verification of the existence of minimum motor vehicle liability insurance coverage and paid all applicable taxes, penalties, insurance lapse fees, and fees other than the registration fee. Such temporary operating permit shall be valid for 30 days and shall not be renewable.

(2) An application for the registration of a motor vehicle may not be submitted separately from the application for a certificate of title for such motor vehicle, unless a certificate of title has been issued in the owner's name, has been applied for in the owner's name, or the motor vehicle is not required to be titled. An application for a certificate of title for a motor vehicle may be submitted separately from the application for the registration of such motor vehicle.

(b) Subsection (a) of this Code section shall not apply:

(1) To any motor vehicle or trailer owned by the state or any municipality or other political subdivision of this state and used exclusively for governmental functions except to the extent provided by Code Section 40-2-37;

(2) To any tractor or three-wheeled motorcycle used only for agricultural purposes;

(2.1) To any vehicle or equipment used for transporting cargo or containers between and within wharves, storage areas, or terminals within the facilities of any port under the jurisdiction of the Georgia Ports Authority when such vehicle or equipment is being operated upon any public road not part of The Dwight D. Eisenhower System of Interstate and Defense Highways by the owner thereof or his or her agent within a radius of ten miles of the port facility of origin and accompanied by an escort vehicle equipped with one or more operating amber flashing lights that are visible from a distance of 500 feet;

(3) To any trailer which has no springs and which is being employed in hauling unprocessed farm products to their first market destination;

(4) To any trailer which has no springs, which is pulled from a tongue, and which is used primarily to transport fertilizer to a farm;

(5) To any electric powered personal transportation vehicle;

(6) To any moped; or

(7) To any golf car.

(c) Any person who fails to register a new or used motor vehicle as required in subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$100.00.

(d) Upon the payment of the requisite fee, the purchaser of a new motor vehicle passenger car, as such terms are defined in paragraphs (34) and (41) of Code Section 40-1-1, for which such purchaser has paid state and local title ad valorem taxes may choose to register such passenger car for an initial period of two years instead of the annual registration provided for in this Code section provided that the motor vehicle owner does not elect a prestige or special license plate. Thereafter, such passenger car shall be subject to the annual registration requirements of this Code section. (Ga. L. 1927, p. 226, § 3; Ga. L. 1931, p. 7, § 84; Ga. L. 1931, p. 213, § 1; Code 1933, § 68-201; Ga. L. 1943, p. 341, § 2; Ga. L. 1953, Jan.-Feb. Sess., p. 392, § 2; Ga. L. 1957, p. 590, § 1; Ga. L. 1960, p. 777, § 1; Ga. L. 1966, p. 252, § 1; Ga. L. 1969, p. 266, § 1; Ga. L. 1973, p. 595, § 2; Ga. L. 1973, p. 781, § 1; Ga. L. 1974,

p. 414, § 1; Ga. L. 1974, p. 451, § 1; Ga. L. 1978, p. 2241, § 2; Ga. L. 1984, p. 603, § 1; Ga. L. 1984, p. 1329, § 1; Ga. L. 1985, p. 149, § 40; Ga. L. 1986, p. 1053, § 2; Ga. L. 1987, p. 949, § 1; Ga. L. 1990, p. 1657, § 3; Ga. L. 1990, p. 2048, § 2; Ga. L. 1993, p. 1260, § 2; Ga. L. 1994, p. 352, § 1; Ga. L. 1995, p. 809, § 2; Ga. L. 1996, p. 1118, § 2; Ga. L. 1997, p. 419, § 4; Ga. L. 1998, p. 1179, § 4; Ga. L. 1999, p. 81, § 40; Ga. L. 1999, p. 784, § 1; Ga. L. 2000, p. 136, § 40; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 1173, § 1-2; Ga. L. 2002, p. 506, § 3; Ga. L. 2002, p. 512, § 4; Ga. L. 2009, p. 449, § 1/SB 128; Ga. L. 2010, p. 143, § 3/HB 1005; Ga. L. 2012, p. 804, § 2/HB 985; Ga. L. 2014, p. 745, § 2/HB 877; Ga. L. 2015, p. 60, § 4-4/SB 100; Ga. L. 2015, p. 836, § 1/HB 147.)

**The 2015 amendments.** — The first 2015 amendment, effective July 1, 2015, added subparagraph (a)(1)(C). See editor's note for applicability. The second 2015 amendment, effective July 1, 2015, substituted "subsections (b) and (d)" for "subsection (b)" at the beginning of subparagraph (a)(1)(A); and added subsection (d).

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

#### **40-2-38. Registration and licensing of manufacturers, distributors, and dealers; dealer plates; calculation of registration requirements.**

(a)(1) Manufacturers, distributors, and dealers engaged in the manufacture, sale, or leasing of vehicles required to be registered under Code Section 40-2-20 shall register with the commissioner, making application for a distinguishing dealer's number, specifying the name and make of motor vehicle, tractor, or trailer manufactured, sold, or leased by them, upon forms prepared by the commissioner for such purposes, and pay therefor a fee of \$62.00, which shall accompany such application. Upon payment of such fee by a dealer, the commissioner shall furnish to the dealer one master number plate to expire each year in accordance with subsection (f) of this Code section, to be known as a dealer's number and to be distinguished from the number plates provided for in this chapter by different and distinguishing colors to be determined by the commissioner. The dealer plate for a franchise motor vehicle dealer shall be distinguishable from the dealer plate for a used car dealer and from the dealer plate for a motor vehicle wholesaler. A dealer's number plate is for the purpose of demonstrating or transporting dealer's vehicles or trailers for sale or lease. Persons engaged in the business of transporting vehicles for a dealer under a vehicle's own power shall be permitted to use such dealer's plate for the purpose of transporting a vehicle.

(2) No dealer may use or permit to be used a dealer's number for private use or on cars for hire, for lease, or other manner not provided

for in this Code section. A dealer may use or permit to be used a dealer's number for private use on vehicles owned by the dealership, regardless of whether such vehicle has been issued a certificate of title or registered, when such vehicles are operated by an employee or corporate officer of the dealer which has been issued such number. A distinguishing dealer's number used by an employee or officer for private use shall authorize such person to operate the vehicle to which the number is attached on the public highways and streets. For purposes of this paragraph, "employee" means a person who works a minimum of 36 hours per week at the dealership.

(3) The manufacturer's or distributor's license plate is limited to no longer than six months' use per vehicle. Upon payment of such a fee by a manufacturer or distributor, the commissioner shall issue to manufacturers and distributors number plates with the word "Manufacturer" or "Distributor" on such plates. Nothing in this subsection shall preclude a manufacturer or distributor from using a "Manufacturer" or "Distributor" number plate on motor vehicles it owns when such vehicles are used for evaluation or demonstration purposes, notwithstanding incidental personal use by a manufacturer or distributor. A dealer may apply for one or more distinguishing dealer's numbers. In the event the dealers, distributors, or manufacturers desire more than one tag, they shall so state on the application, and, in addition to the fee of \$62.00 provided in this Code section, shall pay \$12.00 for each and every additional number plate furnished.

(4)(A) Upon application and payment of the required fee, the commissioner shall issue to manufacturer headquarters or its affiliate number license plates with the words "Manufacturer HQ" on such plates. The manufacturer headquarters license plates must be used exclusively on motor vehicles owned or in possession of a manufacturer headquarters or its affiliate. Such manufacturer headquarters plates are limited to no longer than 24 months' use per vehicle.

(B) A manufacturer headquarters or its affiliate shall apply on a form prescribed by the commissioner and shall provide proof that the applicant:

(i) Is a bona fide manufacturer headquarters; and

(ii) Maintains a system of records regarding use of such license plates. The manufacturer headquarters shall state in each application the number of manufacturer headquarters license plates requested.

(C) The manufacturer headquarters or its affiliate shall pay an application fee of \$62.00 per application as provided in this Code section, and shall pay \$12.00 for each and every plate furnished.

With respect to any manufacturer headquarters license plate issued to a manufacturer headquarters or its affiliate, notwithstanding anything to the contrary in this title or Code Section 48-5C-1, such manufacturer headquarters or its affiliate, and any person operating or possessing a motor vehicle using a manufacturer headquarters license plate pursuant to this paragraph, shall not be subject to state or local title ad valorem tax fees with respect to such vehicle or manufacturer headquarters license plate.

(D) The manufacturer headquarters or its affiliate shall maintain a system of records regarding the motor vehicle to which the manufacturer headquarters license plate will be attached. Such record shall, at a minimum, contain the:

(i) Vehicle Identification Number (VIN);

(ii) Name and address of the primary individual operating the vehicle; and

(iii) Manner of use of the vehicle selected from the alternative uses referenced in subparagraph (E) of this paragraph.

(E) Vehicles with manufacturer headquarters license plates may be operated by persons authorized by the manufacturer headquarters or its affiliate on vehicles of its brand for the following manners of use:

(i) Evaluation, marketing, or demonstration purposes, notwithstanding incidental personal use by a manufacturer headquarters' authorized employee or other authorized person designated by such manufacturer headquarters or its affiliate; or

(ii) As part of a vehicle leasing program operated by such manufacturer headquarters or its affiliate for the benefit of employees. Any operation of a motor vehicle by a person for an approved use pursuant to this subparagraph shall be deemed to be a demonstration of the motor vehicle for purposes of Code Section 48-8-39.

(b) Dealer plates shall be issued in the following manner:

(1) Dealers shall be issued a master plate and two additional plates, for a total of three initial plates; and

(2) In addition to the three dealer plates issued in accordance with paragraph (1) of this subsection, each dealer may also be issued one additional dealer plate for every 20 units sold in a calendar year.

In order to determine the additional number and classification of plates to be issued to a dealer, a dealer shall be required to certify by affidavit to the department the number of retail and wholesale units sold in the

prior calendar year using the past motor vehicle sales history of the dealer as identified by department records of documentation approved by the department. If no sales history is available, the department shall issue a number of plates based on an estimated number of sales for the coming calendar year. The department may, in its discretion, request documentation supporting sales history and may increase or decrease the number and classification of plates issued based on actual sales.

(c) This Code section shall not apply in any manner to mopeds as such term is defined in Code Section 40-1-1.

(d) The license plates issued pursuant to this Code section shall be revoked and confiscated upon a determination after a hearing that such dealer, distributor, manufacturer, or manufacturer headquarters has unlawfully used such license plates in violation of this Code section.

(e) If a license plate issued pursuant to this Code section is lost or stolen, the dealer, manufacturer, distributor, manufacturer headquarters, or other party to whom the license plate was issued must immediately report the lost or stolen plate to local law enforcement agencies. If a replacement license plate is sought, the dealer, manufacturer, distributor, manufacturer headquarters, or other party to whom the license plate was issued shall file a notarized affidavit with the department requesting a replacement plate. Such affidavit shall certify under penalty of perjury that the license plate has been lost or stolen and that the loss has been reported to a local law enforcement agency.

(f)(1) The expiration of a license plate issued pursuant to this Code section shall be the last day of the registration period as provided in division (a)(1)(A)(ii) of Code Section 40-2-21, except that for the purposes of this subsection, the registration period shall be determined by the first letter of the legal name of the business listed on the application for registration or renewal of registration. An application for renewal of registration shall not be submitted earlier than 90 days prior to the last day of the registration period. A penalty of 25 percent of the total registration fees due shall be assessed any person registering pursuant to this Code section who, prior to the expiration of such person's registration period, fails to apply for renewal or if having applied fails to pay the required fees.

(2) A transition period shall commence on October 1, 2007, and conclude on December 31, 2007, for all existing registrations and any new registration applications presented prior to January 1, 2008. On or after January 1, 2008, new applications for registration shall be submitted and remain valid until the expiration of such registration as specified in paragraph (1) of this subsection.

(g) The commissioner shall adopt rules and regulations for the implementation of this Code section. (Ga. L. 1927, p. 226, § 7; Ga. L.

1931, p. 7, § 84; Code 1933, § 68-213; Ga. L. 1963, p. 529, § 1; Ga. L. 1977, p. 591, § 1; Ga. L. 1978, p. 2241, § 2A; Code 1981, § 40-2-36; Ga. L. 1982, p. 3, § 40; Ga. L. 1985, p. 149, § 40; Code 1981, § 40-2-38, as redesignated by Ga. L. 1990, p. 2048, § 2; Ga. L. 1992, p. 2978, § 1; Ga. L. 1993, p. 296, § 1; Ga. L. 1997, p. 1559, § 1; Ga. L. 2004, p. 631, § 40; Ga. L. 2005, p. 321, § 2/HB 455; Ga. L. 2006, p. 465, § 1/HB 1052; Ga. L. 2007, p. 652, §§ 3, 4/HB 518; Ga. L. 2015, p. 1219, § 2/HB 202.)

**The 2015 amendment**, effective May 6, 2015, added paragraph (a)(4); substituted “dealer, distributor, manufacturer, or manufacturer headquarters” for “dealer, distributor, or manufacturer” in subsection (d); and inserted “manufacturer headquarters,” in the first two sentences in subsection (e).

#### 40-2-41. Display of license plates.

#### JUDICIAL DECISIONS

##### Stop of vehicle justified by obscured plate.

Obstruction of one number on the defendant's license plate by the ball of a trailer hitch violated O.C.G.A. § 40-2-41 as the officer testified that the officer was unable

to read the entire license plate and the video from the officer's car showed the hitch concealing at least one number. *Worlds v. State*, 328 Ga. App. 827, 762 S.E.2d 829 (2014).

#### ARTICLE 3

#### PRESTIGE LICENSE PLATES AND SPECIAL PLATES FOR CERTAIN PERSONS AND VEHICLES

#### 40-2-63.1. Special license plates for public safety first responders injured in line of duty.

(a) Any law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder who has sustained a major injury through no fault of his or her own during the competent performance of his or her official duties shall, upon application therefor, be issued a special and distinctive motor vehicle license plate upon presentation of proof that such individual is entitled to receive such special license plate. Application for such license plates shall include payment of a manufacturing fee of \$25.00. For purposes of this Code section, a major injury shall be one that was of sufficient seriousness as to require hospitalization or comparable medical treatment and which resulted in permanent disability or disfigurement of the body.

(b) License plates issued pursuant to this Code section need not contain a place for the county name decal, and a county name decal need not be affixed to a license plate issued pursuant to this Code section. Special and distinctive license plates issued pursuant to this

Code section shall be renewed annually, and revalidation decals shall be issued upon compliance with the laws relating to registration and licensing and upon payment of an additional registration fee of \$35.00 which shall be collected by the county tag agent at the time for collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The special license plates issued pursuant to this Code section shall be transferred to another vehicle as provided in Code Section 40-2-80.

(c) The commissioner is authorized and directed to design the license plate, establish procedures, establish standards for proof of eligibility, and promulgate rules and regulations to effectuate the purposes of this Code section. (Code 1981, § 40-2-63.1, enacted by Ga. L. 2015, p. 816, § 1/HB 48.)

**Effective date.** — This Code section became effective July 1, 2015.

#### **40-2-69. Free license plates and revalidation decals for disabled veterans.**

(a) Any disabled veteran who is a citizen and resident of this state shall, upon application therefor, be issued a free motor vehicle license plate. As used in this Code section, the term "disabled veteran" means any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled or as being less than 100 percent totally disabled but is compensated at the 100 percent level due to individual unemployability and is entitled to receive a statutory award from the United States Department of Veterans Affairs for:

- (1) Loss or permanent loss of use of one or both feet;
- (2) Loss or permanent loss of use of one or both hands;
- (3) Loss of sight in one or both eyes; or

(4) Permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends on angular distance no greater than 20 degrees in the better eye.

(b) Any disabled veteran shall, upon application therefor, be issued a free motor vehicle license plate upon presentation of proof that he or she qualifies as a disabled veteran. A disabled veteran who claims that his or her disability is permanent shall furnish proof of such permanent disability through a letter from the United States Department of Veterans Affairs.

(c)(1) Once a disabled veteran has established his or her eligibility to receive free motor vehicle license plates as a result of being permanently disabled, he or she shall be entitled to receive free plates or free revalidation decals in succeeding years on any automobile, private passenger pickup truck, motorcycle, station wagon, or van type vehicle of three-quarter tons or less that he or she may own or jointly with his or her spouse or minor child own or acquire in the future.

(2) Once a disabled veteran has established his or her eligibility to receive free motor vehicle license plates but his or her disability has not been determined to be a permanent disability, he or she shall be entitled to receive free plates or free revalidation decals in succeeding years upon furnishing, on an annual basis, proof of his or her status as a disabled veteran through a letter from the United States Department of Veterans Affairs. Such free plates or free revalidation decals shall apply to any automobile, private passenger pickup truck, motorcycle, station wagon, or van type vehicle of three-quarter tons or less that he or she may own or jointly with his or her spouse or minor child own or acquire in the future.

(3)(A) Two license plates or revalidation decals each year shall be furnished for vehicles other than motorcycles to disabled veterans qualifying under this Code section unless the originals are lost. Such plates shall be fastened to both the front and the rear of the vehicle.

(B) One license plate or revalidation decal each year shall be furnished for motorcycles to disabled veterans qualifying under this Code section unless the original is lost. Such plate shall be fastened to the rear of the vehicle.

(4) In the event of the death of the person who received the special license plates pursuant to this Code section, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, his or her unremarried surviving spouse or minor child may continue to receive the free special license plates and revalidation decals until the remarriage of the surviving spouse or death of the surviving spouse or minor child. (Ga. L. 1956, p. 336, § 1; Ga. L. 1957, p. 69, § 1; Ga. L. 1959, p. 349, § 1; Ga. L. 1961, p. 554, § 1; Ga. L. 1965, p. 325, § 1; Ga. L. 1968, p. 1211, § 1; Ga. L. 1970, p. 315, § 1; Ga. L. 1970, p. 316, § 1; Ga. L. 1975, p. 720, § 1; Code 1981, § 40-2-68; Ga. L. 1985, p. 149, § 40; Ga. L. 1990, p. 45, § 1; Code 1981, § 40-2-69, as redesignated by Ga. L. 1990, p. 2048, § 2; Ga. L. 1992, p. 1498, § 1; Ga. L. 1994, p. 393, §§ 1, 2; Ga. L. 1997, p. 1559, § 3; Ga. L. 2007, p. 668, § 1/SB 81; Ga. L. 2015, p. 816, § 2/HB 48.)

**The 2015 amendment**, effective July 1, 2015, rewrote the introductory language of subsection (a), which formerly read: "Any veteran who was discharged under honorable conditions and who served on active duty in the armed forces of the United States or on active duty in a reserve component of the United States, including the National Guard, shall, upon application therefor, be issued a free motor vehicle license plate upon presentation of proof that such veteran is receiving or that he or she is entitled to receive a statutory award from the United States Department of Veterans Affairs for:"; in subsection (b), in the first sentence, substituted "Any disabled veteran" for "Any veteran who was discharged under honorable conditions and who has been adjudicated by the United States Department of Veterans Affairs as being 100 percent totally disabled and entitled to receive service connected benefits" and "qualifies as a disabled veteran" for "is receiving or that

he or she is entitled to receive benefits for a 100 percent service connected disability, as long as he or she is 100 percent disabled", and in the second sentence, inserted "disabled" near the beginning, and substituted "his or her disability" for "such 100 percent total disability" near the middle; in paragraph (c)(1), inserted "disabled" near the beginning, and inserted "or minor child" near the end; in paragraph (c)(2), in the first sentence, inserted "disabled" near the beginning, substituted "but his or her disability" for "as a result of having a 100 percent total disability which" near the middle, and substituted "his or her status as a disabled veteran" for "such 100 percent disability" near the end, and, in the second sentence, inserted "or minor child" near the end; in subparagraphs (c)(3)(A) and (c)(3)(B), inserted "disabled" in the first sentences; and, in paragraph (c)(4), inserted "or minor child" twice, "unremarried" and "remarriage of the surviving spouse or".

#### **40-2-81. Special license plates for members of the Georgia State Defense Force.**

(a) For purposes of this Code section, the term "Georgia State Defense Force" means that organization established pursuant to Part 3 of Article 1 of Chapter 2 of Title 38.

(b)(1) Motor vehicle and trailer owners who are members of the Georgia State Defense Force shall be eligible to receive special and distinctive vehicle license plates for private passenger cars, trucks, motorcycles, or recreational vehicles used for personal transportation. Such license plates shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter.

(2)(A) Motor vehicle and trailer owners who are members of the Georgia State Defense Force shall be issued upon application for and upon compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles a Georgia State Defense Force member license plate. One such license plate shall be issued without the requisite registration fee, manufacturing fee, or annual registration fee.

(B) Each member of the Georgia State Defense Force shall be entitled to no more than one such free license plate at a time; provided, however, that upon payment of a manufacturing fee of \$25.00, a member shall be entitled to one additional such license

plate. For each additional license plate for which a \$25.00 manufacturing fee is required, there shall be an additional annual registration fee of \$25.00 which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34.

(c) The commissioner shall design a Georgia State Defense Force member license plate. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private passenger cars, trucks, motorcycles, and trailers before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for such special and distinctive license plates shall be \$25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Such plates shall be nontransferable.

(d) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars, trucks, motorcycles, and trailers used for personal transportation. Such plates shall contain such words or symbols, in addition to the numbers and letters prescribed by law, so as to identify distinctively the owners as members of the Georgia State Defense Force.

(e) The license plate issued pursuant to this Code section may be transferred between vehicles as provided in Code Section 40-2-80.

(f) Special license plates issued under this Code section, except as provided in subparagraph (b)(2)(A) of this Code section, shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31 without payment of an additional \$25.00 annual registration fee.

(g) Should a member of the Georgia State Defense Force who has been issued a license plate or license plates be discharged or otherwise separated from the Georgia State Defense Force, the member shall forward his or her Georgia State Defense Force member license plate or plates to the commissioner along with a certificate to the effect that such person has been discharged or otherwise separated from the Georgia State Defense Force, and thereupon the commissioner shall issue a regular license plate, at no additional charge, to such former member of the Georgia State Defense Force to replace the Georgia State Defense Force member plate or plates. (Code 1981, § 40-2-81, enacted by Ga. L. 2015, p. 816, § 2.1/HB 48.)

**Effective date.** — This Code section became effective July 1, 2015.

**40-2-85.1. Special and distinctive license plates for veterans.**

(a) For purposes of this Code section, the term:

(1) "Military medal award" means the following medals, decorations, or other recognition of honor for military service awarded by a branch of the United States military:

- (A) Medal of Honor;
- (B) Bronze Star Medal;
- (C) Silver Star Medal;
- (D) Distinguished Service Cross;
- (E) Navy Cross;
- (F) Air Force Cross;
- (G) Defense Distinguished Service Medal;
- (H) Homeland Security Distinguished Service Medal;
- (I) Distinguished Service Medal;
- (J) Navy Distinguished Service Medal;
- (K) Air Force Distinguished Service Medal;
- (L) Coast Guard Distinguished Service Medal;
- (M) Defense Superior Service Medal;
- (N) Legion of Merit;
- (O) Distinguished Flying Cross;
- (P) Purple Heart; and
- (Q) Air Medal.

(2) "Served during active military combat" means active duty service in World War I, World War II, the Korean War, the Vietnam War, Operation Desert Storm, the Global War on Terrorism as defined by Presidential Executive Order 13289, Section 2, the war in Afghanistan, or the war in Iraq, which includes either Operation Iraqi Freedom or Operation Enduring Freedom.

(3) "Veteran" means a former member of the armed forces of the United States who is discharged from the armed forces under conditions other than dishonorable.

(b)(1) Motor vehicle and trailer owners who are veterans of the armed forces of the United States, or who have received a military medal award, or persons who served during active military combat

shall be eligible to receive special and distinctive vehicle license plates for private passenger cars, motorcycles, trucks, or recreational vehicles used for personal transportation. Such license plates shall be issued in compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles as prescribed in Article 2 of this chapter.

(2)(A) Motor vehicle and trailer owners who are veterans or have received a military medal award or served during active military combat shall be issued upon application for and upon compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles a veteran's license plate, military medal award recipient license plate, or commemorative service license plate for service during active military combat. One such license plate shall be issued without the requisite registration fee, manufacturing fee, or annual registration fee.

(B) Each member or former member of the armed forces listed in this subsection shall be entitled to no more than one such free license plate at a time; provided, however, that upon payment of a manufacturing fee of \$25.00, a member shall be entitled to one additional such license plate. For each additional license plate for which a \$25.00 manufacturing fee is required, there shall be an additional annual registration fee of \$25.00 which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34.

(c) The commissioner shall design a veteran's license plate, a military medal award recipient license plate, and a license plate to commemorate service with the United States armed forces during active military combat. The commissioner shall promulgate such rules and regulations as may be necessary to enforce compliance with all state license laws relating to the use and operation of private passenger cars, motorcycles, trucks, and trailers before issuing these license plates in lieu of the regular Georgia license plates. The manufacturing fee for such special and distinctive license plates shall be \$25.00. The commissioner is specifically authorized to promulgate all rules and regulations necessary to ensure compliance in instances where such vehicles have been transferred or sold. Except as provided in subsection (e) of this Code section, such plates shall be nontransferable.

(d) The special and distinctive vehicle license plates shall be as prescribed in Article 2 of this chapter for private passenger cars, motorcycles, trucks, and trailers used for personal transportation. Such plates shall contain such words or symbols, in addition to the numbers and letters prescribed by law, so as to identify distinctively the owners as veterans of the armed forces of the United States, recipients of a

military medal award, or persons who served during active military combat and shall additionally identify distinctly the owner as a veteran of one of the following branches of the armed forces: Army, Navy, Marines, Air Force, or Coast Guard.

(e) The license plate issued pursuant to this Code section shall be transferred between vehicles as provided in Code Section 40-2-80. The spouse of a deceased veteran of the armed forces of the United States or of a deceased person who received a military medal award or who served during active military combat shall continue to be eligible to be issued a distinctive personalized license plate as provided in this Code section for any vehicle owned by such veteran ownership of which is transferred to the surviving spouse or for any other vehicle owned by such surviving spouse either at the time of the qualifying veteran's death or acquired thereafter, so long as such person does not remarry.

(f) Special license plates issued under this Code section, except as provided in subparagraph (b)(2)(A) of this Code section, shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31 without payment of an additional \$25.00 annual registration fee. (Code 1981, § 40-2-85.1, enacted by Ga. L. 1991, p. 1036, § 1; Ga. L. 1992, p. 779, § 15; Ga. L. 1992, p. 2785, § 1.1; Ga. L. 1994, p. 413, § 4; Ga. L. 1994, p. 564, § 3; Ga. L. 1997, p. 419, § 31; Ga. L. 1998, p. 1179, § 27; Ga. L. 2001, p. 479, § 1; Ga. L. 2007, p. 668, § 2/SB 81; Ga. L. 2012, p. 155, § 5/HB 732; Ga. L. 2013, p. 141, § 40/HB 79; Ga. L. 2013, p. 265, § 2/SB 121; Ga. L. 2015, p. 816, § 3/HB 48.)

**The 2015 amendment**, effective July 1, 2015, inserted "motorcycles," in the first sentence of paragraph (b)(1), in the second sentence of subsection (c), and in the first sentence of subsection (d).

#### **40-2-85.3. Special license plates honoring family members of service members killed in action.**

(a) Special license plates honoring the family members of service members who have been killed in action while serving in the armed forces of the United States shall be issued in this state. The license plate shall be officially designated as the Gold Star license plate.

(b) The commissioner, in cooperation with supporters of this license plate, shall design a special license plate for the family members of service members who have been killed in action while serving in the armed forces of the United States. The license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed an amount to be determined by the commissioner. The license plate shall bear in a conspicuous place a gold star with blue fringe on a white background with a red border. This is the

symbol for a fallen service member. In the indented area normally used for the county of residence decal, the words "Gold Star Family" shall be displayed.

(c) Notwithstanding the provisions of subsections (a) and (b) of this Code section, this Code section shall not be implemented until such time as the State of Georgia has, through a licensing agreement or otherwise, received such license or other permission as may be required to implement this Code section. The design of the initial edition of such special license plate, as well as the design of subsequent editions and excepting only any part or parts of the designs owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright or copyrights. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law, and no person shall reproduce or otherwise use such design or designs, except as authorized by the commissioner.

(d) Any motor vehicle owner who is a resident of Georgia, other than one registering under the International Registration Plan, upon complying with state laws relating to registration and licensing of motor vehicles shall be issued such a special license plate upon application therefor. Special license plates issued under this Code section shall be renewed annually with a revalidation decal as provided in Code Section 40-2-31. Upon payment of all ad valorem taxes and other fees due at registration of a motor vehicle an eligible family member may apply for a Gold Star license plate. In order to qualify as an eligible family member for purposes of this Code section, the person must be related to the fallen service member as a spouse, mother, father, sibling, child, step-parent, or surviving spouse of such service member's sibling. One free license plate shall be allowed for the spouse, mother, and father, and they may purchase additional license plates for each motor vehicle they register in this state. Siblings, children, step-parents, or surviving spouses of siblings of service members may purchase Gold Star license plates for motor vehicles registered in this state. The cost of a Gold Star license plate shall be established by the department, but shall not exceed the cost of other specialty license plates. If a Gold Star license plate is lost, damaged, or stolen, the eligible family member must pay the reasonable cost, to be established by the department, but not to exceed the cost of other specialty license plates, to replace the Gold Star license plate.

(e) Whether a service member is deemed to have been killed in action shall be determined by the classification of death as listed by the United States Department of Defense and may be verified from documentation directly from the Department of Defense.

(f) A free Gold Star license plate shall be issued only to the spouse, mother, and father of service members who resided in Georgia at the time of the death of the service member. However, an eligible family member, except for nonresident siblings or surviving spouses of such nonresident siblings, who was not a resident of Georgia at the time of the death of the service member may purchase a Gold Star license plate, at a cost to be established by the department, not to exceed the cost of other specialty license plates.

(g) Renewal decals shall be issued at no cost to any person that received a free license plate under the provisions of this Code section upon the payment of ad valorem taxes and other registration fees, provided that the renewal is applied for on or within 30 days prior to the renewal date of the eligible person. If the eligible person fails to renew within such time, he or she shall pay a standard renewal fee and be subject to the standard penalties for late payment of ad valorem taxes due on the motor vehicle.

(h) An eligible family member may request a Gold Star license plate at any time during his or her registration period. If such a license plate is to replace a current valid license plate, the license plate shall be issued with appropriate renewal decals attached.

(i) License plates issued pursuant to this Code section shall not be transferred between vehicles as provided in Code Section 40-2-42, unless the transfer is to another motor vehicle owned by the eligible family member.

(j) Gold Star license plates shall be issued within 30 days of application.

(k) The commissioner is authorized and directed to establish procedures and promulgate rules and regulations to effectuate the purposes of this Code section. (Code 1981, § 40-2-86.18, enacted by Ga. L. 2006, p. 741, § 1/SB 523; Code 1981, § 40-2-85.3, as redesignated by Ga. L. 2010, p. 9, § 1-76; Ga. L. 2010, p. 141, § 1; Ga. L. 2015, p. 816, § 4/HB 48.)

**The 2015 amendment**, effective July 1, 2015, in subsection (d), in the fourth sentence, inserted “for purposes of this Code section”, deleted “directly” preceding “related to”, and substituted “child, step-parent, or surviving spouse of such service member’s sibling” for “child, or

step-parent”, and, in the sixth sentence, substituted “children, step-parents, or surviving spouses of siblings of service members” for “children, or step-parents”; and inserted “or surviving spouses of such nonresident siblings” in the second sentence of subsection (f).

**40-2-86. Special license plates promoting certain beneficial projects and supporting certain worthy agencies, funds, or nonprofit corporations with proceeds disbursed to the general fund and the agency, fund, or nonprofit corporation.**

(a)(1) As used in this Code section, except as otherwise provided in subsection (n) of this Code section, the term:

(A) "Manufacturing fee" means a \$25.00 fee paid at the time a special license plate is issued.

(B) "Special license plate fee" means a \$35.00 fee paid at the time a special license plate is issued.

(C) "Special license plate renewal fee" means a \$35.00 fee paid at the time a revalidation decal is issued for a special license plate.

(2) In accordance with Article III, Section IX, Paragraph VI(n) of the Constitution, the General Assembly has determined that the issuance of special license plates to support an agency or fund or a program beneficial to the people of this state that is administered by a nonprofit corporation organized under Section 501(c)(3) of Title 26 of the Internal Revenue Code and dedicating a portion of the funds raised from the sale of these special license plates is in the best interests of the people of this state.

(b) The agency, fund, or nonprofit corporation sponsoring the special license plate, in cooperation with the commissioner, shall design special distinctive license plates appropriate to promote the program benefited by the sale of the special license plate. The special license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed an amount to be determined by the commissioner. No two recipients shall receive identically numbered plates. The agency, fund, or nonprofit corporation sponsoring the license plate may request the assignment of the first of 100 in a series of license plates upon payment of an additional initial registration fee of \$25.00 for each license plate requested.

(c) Notwithstanding the provisions of subsection (b) of this Code section, no special license plate shall be produced until such time as the State of Georgia has, through a licensing agreement or otherwise, received such licenses or other permissions as may be required to produce the special license plate. The design of the initial edition of any special license plate, as well as the design of subsequent editions and excepting only any part or parts of the designs owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner.

The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright or copyrights. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law, and no person shall reproduce or otherwise use such design or designs, except as authorized by the commissioner.

(d) Any Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of the appropriate fees in addition to the regular motor vehicle registration fee shall be able to apply for a special license plate listed in this Code section. Revalidation decals shall be issued for special license plates in the same manner as provided for general issue license plates.

(e) Before the department disburses to the agency, fund, or nonprofit corporation funds from the sale of special license plates, the agency, fund, or nonprofit corporation must provide a written statement stating the manner in which such funds shall be utilized. In addition, a nonprofit corporation shall provide the department with documentation of its nonprofit status under Section 501(c)(3) of Title 26 of the Internal Revenue Code. The purposes for which the funds shall be utilized shall be the same as those specified in this Code section authorizing the dedication to the agency, fund, or nonprofit corporation of revenue from the sale of special license plates. The agency, fund, or nonprofit corporation shall periodically provide to the commissioner an audit of the use of the funds or other evidence of use of the funds satisfactory to the commissioner. Any agency, fund, or nonprofit corporation which receives funds under subsection (n) of this Code section shall submit annually to the members of the Senate Natural Resources and the Environment Committee, the House Committee on Game, Fish, and Parks, the House Committee on Appropriations, and the Senate Appropriations Committee, and to the commissioner of natural resources a detailed audit containing the disposition and expenditure of all funds received pursuant to such subsection. If it is determined that the funds are not being used for the purposes set forth in the statement provided by the agency, fund, or nonprofit corporation, the department shall withhold payment of such funds until such noncompliance issues are resolved.

(f) An applicant may request a special license plate any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, the special license plate shall be issued with appropriate decals attached upon payment of the manufacturing fee and the special license plate renewal fee.

(g) On or after July 1, 2010, no special license plate authorized pursuant to subsections (l), (m), and (n) of this Code section shall be

issued except upon the receipt by the department of at least 1,000 prepaid applications along with the manufacturing fees. The special license plate shall have an application period of two years after the date on which the application period becomes effective for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fees, and all fees shall be refunded to applicants; provided, however, that once the department has received 1,000 pre-paid applications along with the manufacturing fees, the sponsor shall not be entitled to a refund.

(h) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the period provided for in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of the special license plate renewal fee which shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period provided for in subsection (b) of Code Section 40-2-31, the sponsoring agency, fund, or nonprofit corporation shall be required again to obtain 1,000 prepaid applications accompanied by the manufacturing fees to continue to manufacture the special license plate.

(i) Special license plates shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.

(j) Special license plates shall be issued within 30 days of application once the requirements of this Code section have been met.

(k) The commissioner is authorized and directed to establish procedures and promulgate rules and regulations to effectuate the purposes of this Code section.

(l)(1) The General Assembly has determined that special license plates supporting the agencies, funds, or nonprofit corporations listed in this subsection shall be issued for the purposes indicated. The special license plates listed in this subsection shall be subject to a manufacturing fee, a special license plate fee, and a special license plate renewal fee. The revenue disbursement for the special license plates listed in this subsection shall be as follows:

(A) Manufacturing fee — \$25.00 of which \$24.00 is to be deposited into the general fund and \$1.00 to be paid to the local county tag agent;

(B) Special license plate fee — \$35.00 of which \$25.00 is to be deposited into the general fund and \$10.00 is to be dedicated to the sponsoring agency, fund, or nonprofit corporation as permitted by Article III, Section IX, Paragraph VI(n) of the Constitution; and

(C) Special license plate renewal fee — \$35.00 of which \$25.00 is to be deposited into the general fund and \$10.00 is to be dedicated to the sponsoring agency, fund, or nonprofit corporation as permitted by Article III, Section IX, Paragraph VI(n) of the Constitution.

(2) Reserved.

(3) Reserved.

(4) Reserved.

(5) Special license plates promoting the conservation of wildflowers within this state. The funds raised by the sale of these special license plates shall be disbursed to the Department of Transportation to be deposited in the Roadside Enhancement and Beautification Fund established by Code Section 32-6-75.2 and shall be expended only for the purposes enumerated in Code Section 32-6-75.2 and Article III, Section IX, Paragraph VI(l) of the Constitution of the State of Georgia.

(6) Special license plates promoting the dog and cat reproductive sterilization support program of the Georgia Department of Agriculture. The funds raised by the sale of these special license plates shall be disbursed to the Georgia Department of Agriculture and shall be deposited in the special fund for support of the dog and cat reproductive sterilization support program created by Code Section 4-15-1 and Article III, Section IX, Paragraph VI(m) of the Constitution of the State of Georgia.

(7) Special license plates to honor Georgia educators. The funds raised by the sale of these special license plates shall be disbursed to a charitable foundation designated by the State School Superintendent and used to fund educational programs, grants to teachers, and scholarships. The license plates shall display the phrase "Georgia Educators Make A Difference" and a ripe Red Delicious apple shall be depicted to the left of the identifying number of each plate.

(8)(A) The commissioner in cooperation with a college or university may design a special license plate to be issued commemorating that college or university, which license plate shall be similar in design to the license plate issued to all other residents of the state except that the logo or emblem of the college or university shall be placed on the license plate along with the letters and numbers on the license plate. The name of the college or university shall be

imprinted on such special license plate in lieu of the county name decal.

(B) Any college or university that enters into an agreement with the commissioner pursuant to this paragraph shall waive any royalty fees to which it might otherwise be entitled for use of its seal, symbol, emblem, or logotype as provided in this paragraph.

(C) Each college or university located in Georgia that enters into an agreement with the commissioner pursuant to this paragraph shall designate a charitable foundation which shall annually receive an allocation from the special license plate and special license plate renewal fees collected as provided in paragraph (1) of this subsection. Special license plates issued under this paragraph shall be transferred between vehicles as provided in Code Section 40-2-42.

(D) The funds allocated for colleges and universities located in Georgia shall be delivered by the department to the charitable foundation designated by the particular college or university to support needs based, academic, financial aid scholarships for eligible undergraduate students enrolled in the college or university. The funds otherwise allocated for colleges and universities located outside the State of Georgia shall be placed into the general fund.

(E) Each college or university shall review and approve plans for the implementation of these scholarship programs by the applicable charitable foundation. These plans shall include, but need not be limited to, criteria for the awarding of the scholarships and procedures for determining the recipients.

(9) A special license plate for the Georgia Center for the Book to support the purchase of books for public libraries in Georgia. The funds raised by the sale of this special license plate shall be disbursed to the Georgia Center for the Book.

(10) A special license plate for Children's Healthcare of Atlanta to support the work this pediatric hospital system does in the State of Georgia. The funds raised by the sale of this special license plate shall be disbursed to Children's Healthcare of Atlanta.

(11) A special license plate for the Georgia War Veterans Nursing Home to support the implementation and operation of the Georgia War Veterans Nursing Home. The funds raised by the sale of this special license plate shall be disbursed to the Department of Veterans Service for use in operating the Georgia War Veterans Nursing Home.

(12) A special license plate for the Georgia Automobile Racing Hall of Fame Association to promote the Georgia Automobile Racing Hall

of Fame Association, which is devoted to preserving the history of automobile racing in Georgia. The funds raised by the sale of this special license plate shall be disbursed to the Georgia Automobile Racing Hall of Fame Association.

(13) A special license plate for the Alzheimer's Association, Georgia Chapter, to help eliminate Alzheimer's disease through the advancement of research and to enhance care and support for individuals, their families, and caregivers. The funds raised by the sale of this special license plate shall be disbursed to the Alzheimer's Association, Georgia Chapter.

(14) A special license plate for the school health and physical education program to help fund school health and physical education programs. The funds raised by the sale of this special license plate shall be disbursed to the Department of Education.

(15) A special license plate for stroke awareness, treatment, and prevention to support programs aiding stroke victims in Georgia. Such license plate shall not include a space for a county name decal but shall instead bear the legend "Stroke Awareness" in lieu of the name of the county of issuance. The funds raised by the sale of this special license plate shall be disbursed to the Center for Telehealth of the Georgia Health Sciences University.

(16) A special license plate for Project Lifesaver promoting the establishment of a Project Lifesaver or similar type of program by local law enforcement agencies. Project Lifesaver's mission is to use state of the art technology in assisting those who care for victims of Alzheimer's disease and other related mental dysfunction disorders and victims who become lost. The funds raised by the sale of this special license plate shall be disbursed to the Department of Public Safety or a nonprofit corporation organized exclusively for the purpose of establishing a Project Lifesaver or similar type of program by local law enforcement agencies.

(17) A special license plate for pediatric cancer to raise funds to support the treatment of pediatric cancer. Such license plate shall not include a space for a county name decal but shall instead bear the legend "Cure Kids' Cancer" in lieu of the name of the county of issuance. The funds raised by the sale of this special license plate shall be disbursed to the Department of Community Health to be deposited in the Indigent Care Trust Fund created by Code Section 31-8-152 to fund pediatric cancer screening and treatment related programs for those children who are medically indigent and may have cancer.

(18) A special license plate for the child care industry to promote the child care industry by encouraging higher educational standards

and providing for professional camaraderie for child care providers. Such license plate shall not include a space for a county name decal but shall instead bear the legend "Support Improved Child Care" in lieu of the name of the county of issuance. The funds raised by the sale of this special license plate shall be disbursed to the Minority Alliance for Child Care Development Advocates, Inc., for the development of programs to help improve child care.

(19) A special license plate to display the motto, "In God We Trust." The funds raised by the sale of this special license plate shall be disbursed to the Boy Scouts of America for the development of scouting programs.

(20) A special license plate for child abuse prevention. Such license plate shall not include a space for a county name decal but shall instead bear the legend "Prevent Child Abuse" in lieu of the name of the county of issuance. The funds raised by the sale of this special license plate shall be disbursed to the Foster Family Foundation of Georgia for the development of programs to help victims of child abuse.

(21) A special license plate for the Thanks Mom and Dad Fund. The funds raised by the sale of this special license plate shall be disbursed to the Department of Human Services to address the key needs of the state's older population or a nonprofit corporation organized to serve the needs of the state's older population.

(22) A special license plate for pediatric cancer research. The funds raised by the sale of this special license plate shall be disbursed to the Joanna McAfee Childhood Cancer Foundation for support of pediatric cancer research. The design of the special license plate provided for in this paragraph shall include the words "Joanna McAfee Childhood Cancer Foundation" horizontally across the bottom of the plate in lieu of the county name.

(23) A special license plate for supporting beautification projects in Cobb County. The funds raised by the sale of this special license plate shall be disbursed to Keep Cobb Beautiful, Inc., for support of beautification projects in Cobb County.

(24) A special license plate for AID Atlanta. The funds raised by the sale of this special license plate shall be disbursed to AID Atlanta which is committed to providing people living with HIV the information and support they need to live healthy and productive lives.

(25) A special license endorsing "Support Our Troops." The funds raised by the sale of this special license plate shall be disbursed to the Georgia National Guard Family Support Foundation, Incorporated.

(26) A special license plate for the Sons of Confederate Veterans. The funds raised by the sale of this special license plate shall be disbursed to Georgia Sons of Confederate Veterans.

(27) A special license plate for amyotrophic lateral sclerosis (ALS), also known as “Lou Gehrig’s disease,” to support research and education on amyotrophic lateral sclerosis. The funds raised by the sale of this special license plate shall be disbursed to the ALS Association of Georgia.

(28) A special license plate for foster parents to support programs for foster parents in Georgia. The funds raised by the sale of this special license plate shall be disbursed to The Adoptive and Foster Parent Association of Georgia, Inc., for support of foster parents in Georgia.

(29) A special license plate for the Atlanta Braves Foundation to assist the charities supported by the foundation. The funds raised by the sale of this special license plate shall be disbursed to the Department of Community Affairs or such other public agency or nonprofit corporation as may be designated.

(30) A special license plate for the Atlanta Falcons Youth Foundation to assist the charities supported by the foundation. The funds raised by the sale of this special license plate shall be disbursed to the Atlanta Falcons Youth Foundation. Such license plate shall not include a space for a county name decal but shall instead bear the legend “Atlanta Falcons” in lieu of the name of the county of issuance.

(31) A special license plate for supporting beautification projects in Georgia. The funds raised by the sale of this special license plate shall be disbursed to Keep Georgia Beautiful Foundation, Inc., for support of beautification projects in Georgia.

(32) A special license plate displaying the logo of Choose Life, Inc. The words “Choose Life” must appear at the bottom. The funds raised by the sale of this special license plate shall be disbursed to Choose Life of Georgia, Inc., to be distributed among nonprofit corporations in Georgia that counsel women to consider adoption.

(33) A special license plate supporting education on the maritime history of Georgia’s coast. The funds raised by the sale of this special license plate shall be disbursed to The Georgia Maritime Foundation, Inc., for use in programs supporting education on the maritime history of Georgia.

(34) A special license plate supporting programs for persons with brain related disorders and disabilities. The funds raised by the sale of this special license plate shall be disbursed to Pilot International

for support of programs for persons with brain related disorders in Georgia.

(35) A special license plate supporting agriculture in Georgia. The funds raised by the sale of this special license plate shall be evenly split between Georgia 4-H and the Georgia Association of Future Farmers of America to fund projects promoting agriculture in Georgia.

(36) A special license plate promoting the Georgia equine industry. The funds raised by the sale of this special license plate shall be disbursed to the Agricultural Commodity Commission for Equines.

(37) A special license plate promoting African American history and tourism in Georgia. The funds raised by the sale of this special license plate shall be disbursed to organizations dedicated to the preservation of African American history in Georgia.

(38) A special license plate honoring veterans who have been awarded the Bronze Star. The funds raised by the sale of this special license plate shall be disbursed to the National Guard Family Foundation.

(39) A special license plate promoting the arts in Georgia. The funds raised by the sale of this special license plate shall be disbursed to the Georgia Council for the Arts.

(40) A special license plate supporting programs for the treatment of autism. The funds raised by the sale of this special license plate shall be disbursed to the Department of Behavioral Health and Developmental Disabilities for the support of programs for the treatment of autism in Georgia.

(41) A special license plate honoring the work of The Garden Club of Georgia, Inc. The funds raised by the sale of this special license plate shall be disbursed to The Garden Club of Georgia, Inc., and used to fund scholarships that are awarded by the club.

(42) A special license plate promoting the Georgia Junior Golf Foundation. The funds raised by the sale of this special license plate shall be disbursed to the Georgia Junior Golf Foundation.

(43) A special license plate commemorating 100 years of scouting in the United States. The funds raised by the sale of this special license plate shall be disbursed to the Boy Scouts of America for the development of scouting programs.

(44) A special license plate supporting Cobb County Public Schools. The funds raised by the sale of this special license plate shall be disbursed to the Cobb County Public Schools Educational Foun-

dation and used to fund educational programs, grants to teachers, and scholarships in the Cobb County Public School System.

(45) A special license plate supporting the Georgia Sea Turtle Center. The funds raised by the sale of this special license plate shall be charged and disbursed to the Nongame Wildlife Conservation and Wildlife Habitat Acquisition Fund and used to fund nongame wildlife conservation and education programs. The design of the license plate provided for in this paragraph shall include the words "Jekyll Island — Georgia's Jewel" horizontally across the bottom of the plate in lieu of the county name, with a diamond jewel symbol in place of the dash.

(46) A special license plate commemorating and supporting the sport of soccer in Georgia. The funds raised by the sale of this special license plate shall be disbursed to the Georgia State Soccer Association, Inc., for the development and promotion of soccer programs in the State of Georgia. Such license plate shall not include a space for a county decal but shall instead bear the legend "gasoccer.org".

(47) A special license plate for the Georgia Aquarium to support its mission as an entertaining, educational, and scientific institution and to promote the conservation of aquatic biodiversity throughout the world. The funds raised by the sale of this special plate shall be disbursed to Georgia Aquarium, Inc. Such license plate shall not include a space for a county name decal but shall instead bear the legend "Georgia Aquarium" in lieu of the name of the county of issuance.

(48) A special license plate for Zoo Atlanta to support its mission to inspire the citizens of Atlanta and Georgia and all visitors to the zoo to value wildlife on Earth; to help safeguard existing species through conservation by providing for an informative, educational, and engaging experience to all visitors; to carry out the responsible stewardship of the animals and the zoo facility; and to engage in related conservation activities and research. The funds raised by the sale of this special plate shall be disbursed to the Atlanta-Fulton County Zoo, Inc. Such license plate shall not include a space for a county name decal but shall instead bear the legend "Protect Wildlife" in lieu of the name of the county of issuance.

(49) A special license plate supporting the Appalachian Trail. The funds raised by the sale of this special license plate shall be disbursed to the Appalachian Trail Conservancy and used to protect, maintain, and conserve the Georgia portion of the Appalachian Trail and connecting trails, and to promote awareness of wilderness, hiking, and back country recreation. Such license plate shall not include a space for a county name decal but shall instead bear the legend "www.appalachiantrail.org".

(50) A special license plate supporting the Atlanta Braves Foundation. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the Atlanta Braves Foundation and used in the foundation's philanthropic activities and charitable sponsorships. Such license plate shall not include a space for a county name decal but shall instead bear the legend "Go Braves."

(51) A special license plate for the Grady Health Foundation to support and improve the quality of health care services. The funds raised by the sale of this special license plate shall be disbursed to the Grady Health Foundation.

(m)(1) The General Assembly has determined that the following special license plates supporting the agencies, funds, or nonprofit corporations listed in this subsection shall be issued for the purposes indicated. The special license plates listed in this subsection shall be subject to a manufacturing fee, a special license plate fee, and a special license plate renewal fee. The revenue disbursement for the special license plates listed in this subsection shall be as follows:

(A) Manufacturing fee — \$25.00 of which \$24.00 is to be deposited into the general fund and \$1.00 to be paid to the local county tag agent;

(B) Special license plate fee — \$35.00 of which \$13.00 is to be deposited into the general fund and \$22.00 is to be dedicated to the sponsoring agency, fund, or nonprofit corporation; and

(C) Special license plate renewal fee — \$35.00 of which \$13.00 is to be deposited into the general fund and \$22.00 is to be dedicated to the sponsoring agency, fund, or nonprofit corporation.

(2) A special license plate promoting the United States Disabled Athletes Fund, for the support of disabled athletes. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the United States Disabled Athletes Fund.

(3) A special license plate commemorating Civil War battlefields and historic sites. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the Civil War Commission for the acquisition of Civil War battlefields and associated Civil War historic sites in this state and for the maintenance, protection, and interpretation of the same as provided by Article 5 of Chapter 7 of Title 50.

(4) A special license plate promoting historic preservation efforts. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the

Department of Natural Resources for use by the Historic Preservation Division to fund historic preservation programs in the state through the Georgia historic preservation grant program as otherwise authorized by law.

(5) A special license plate promoting bicycle safety. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the Governor's Highway Safety Program administered by the Office of Highway Safety in the Department of Public Safety.

(6) A special license plate honoring families with a member serving in the military. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the Department of Veterans Service for use by the National Guard Foundation in carrying out such programs and purposes as may be contractually agreed upon by the department and the foundation.

(7) A special license plate promoting "Support Georgia Troops." The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the Department of Veterans Service for use by the National Guard Foundation in carrying out such programs and purposes as may be contractually agreed upon by the department and the foundation.

(8) A special license plate promoting NASCAR. The provisions of paragraph (1) of this subsection notwithstanding, from the additional \$35.00 special license plate renewal fee charged for the issuance and renewal of the NASCAR license plates authorized under this paragraph, \$10.25 shall be used by the department for purchasing plates from the supplier of the plates, as designated by NASCAR, and royalty costs, \$10.00 shall be deposited in the general fund, and \$14.75 shall be disbursed to the Governor's Highway Safety Program administered by the Office of Highway Safety in the Department of Public Safety.

(9) A special license plate to support breast cancer related programs for the medically indigent. The provisions of paragraph (1) of this subsection notwithstanding, from the additional \$35.00 special license plate fee or special license plate renewal fee charged for the issuance and renewal of breast cancer license plates authorized under this paragraph, \$12.95 shall be deposited in the general fund and \$22.05 shall be deposited in the Indigent Care Trust Fund created by Code Section 31-8-152 to fund cancer screening and treatment related to programs for those persons who are medically indigent and may have breast cancer. To the extent consistent with Article III, Section IX, Paragraph VI(i) of the Constitution and Article

6 of Chapter 8 of Title 31, such programs may include education, breast cancer screening, grants-in-aid to breast cancer victims, pharmacy assistance programs for breast cancer victims, and other projects to encourage public support for the special license plate and the activities which it funds. Such design shall include a logo the same as the United States postal stamp supporting breast cancer research and bearing the slogan "Fund the Fight. Find A Cure." over the sketch of a woman and the breast cancer awareness pink ribbon symbol.

(10) A special license plate to support prostate cancer related awareness and research programs. The provisions of paragraph (1) of this subsection notwithstanding, from the additional \$35.00 special license plate fee or special license plate renewal fee charged for the issuance and renewal of prostate cancer license plates authorized under this paragraph, \$13.00 shall be deposited in the general fund and \$22.00 shall be disbursed to the Georgia Prostate Cancer Coalition to fund prostate cancer awareness, research, screening, and treatment related programs.

(11) A special license plate to support lung cancer related awareness and research programs. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the Joan Gaeta Lung Cancer Fund to fund lung cancer awareness, screening, research, and treatment related programs.

(12) A special license plate to support Georgia nurses and charitable and philanthropic efforts to support, advance, and promote the nursing profession. The funds raised by the sale of this special license plate shall be disbursed as provided in paragraph (1) of this subsection to the Georgia Nurses Foundation of the Georgia Nurses Association for carrying out such programs and purposes.

(n)(1) The General Assembly recognizes that Code Section 12-3-600 mandates that the best interests of the state are served by providing for the conservation of nongame species of wildlife and has determined that the following special license plates supporting the agencies, funds, or nonprofit corporations listed in this subsection shall be issued for the purposes indicated. The special license plates listed in this subsection shall be subject to a special license plate fee and a special license plate renewal fee. The revenue disbursement for the special license plates listed in this subsection shall be as follows:

(A) Special license plate fee — \$25.00 of which \$5.00 is to be deposited into the general fund, \$1.00 is to be paid to the local county tag agent and \$19.00 is to be dedicated to the sponsoring agency, fund, or nonprofit corporation; and

(B) Special license plate renewal fee — \$25.00 of which \$5.00 is to be deposited into the general fund and \$20.00 is to be dedicated to the sponsoring agency, fund, or nonprofit corporation.

(2) Special license plates promoting the Nongame-Endangered Wildlife Program of the Department of Natural Resources. The funds raised by the sale of these special license plates shall be disbursed to the Nongame Wildlife Conservation and Wildlife Habitat Acquisition Fund of the Department of Natural Resources for the purposes enumerated in subsection (b) of Code Section 12-3-602. Such license plates shall not include a space for a county name decal but shall instead bear the legend “Give Wildlife a Chance” in lieu of the name of the county of issuance.

(3) A special license plate promoting conservation and enhancement of trout populations. The funds raised by the sale of this special license plate shall be disbursed to the Wildlife Resources Division of the Department of Natural Resources to supplement trout restoration and management programs.

(4) A special license plate supporting the Bobwhite Quail Restoration Initiative. The funds raised by the sale of this special license plate shall be disbursed to the Wildlife Resources Division of the Department of Natural Resources to conduct programs designed to enhance the bobwhite quail population in this state. Such programs may include the creation of habitat demonstration areas on state managed wildlife lands, education programs, technical assistance to private landowners in the creation and maintenance of bobwhite quail habitats on their lands, and projects to encourage public support for the license plate and the activities it funds. The Department of Natural Resources may enter into such contractual agreements as may be appropriate to further the objectives of the Bobwhite Quail Restoration Initiative, including entering into contractual agreements whereby private landowners, public agencies, or corporate entities create, preserve, or enhance habitat for bobwhite quail in return for the payment of incentives. Such license plate shall not include a space for a county decal but shall instead bear the legend “Support Wildlife” in lieu of the name of the county of issuance. (Code 1981, § 40-2-86.21, enacted by Ga. L. 2006, p. 1094, § 12/HB 1053; Ga. L. 2007, p. 47, § 40/SB 103; Ga. L. 2007, p. 668, §§ 4-6/SB 81; Ga. L. 2008, p. 832, §§ 2, 3/HB 1220; Ga. L. 2008, p. 1191, § 1/HB 963; Ga. L. 2009, p. 453, § 2-18/HB 228; Ga. L. 2009, p. 833, § 1/HB 639; Code 1981, § 40-2-86, as redesignated by Ga. L. 2010, p. 9, § 1-77/HB 1055; Ga. L. 2010, p. 143, § 4.1/HB 1005; Ga. L. 2011, p. 752, § 40/HB 142; Ga. L. 2012, p. 155, § 6/HB 732; Ga. L. 2013, p. 265, § 3/SB 121; Ga. L. 2014, p. 74, §§ 1-3/HB 881; Ga. L. 2015, p. 816, § 5/HB 48.)

The 2015 amendment, effective July 1, 2015, substituted “subsections (l), (m), and (n)” for “subsection (l)” in the first sentence of subsection (g).

**40-2-86.1. Special license plates promoting certain beneficial projects and supporting certain worthy agencies, funds, or nonprofit corporations; special license plates for qualified motor vehicles or drivers with proceeds deposited in the general fund.**

(a) The General Assembly has determined that the issuance of special license plates to support an agency or fund or a program beneficial to the people of this state that is administered by a nonprofit corporation organized under Section 501(c)(3) of Title 26 of the Internal Revenue Code and, subject to the appropriation process of the General Assembly, appropriating a portion of the funds raised from the sale of these special license plates is in the best interests of the people of this state. Therefore, the license plates listed in subsection (l) of this Code section shall be issued by the department if all of the requirements of subsections (b) through (k) of this Code section have been satisfied.

(b) The commissioner, in cooperation with the agency, fund, or nonprofit corporation sponsoring the special license plate, shall design special distinctive license plates intended to promote the program benefited by the sale of the special license plate. The special license plates must be of the same size as general issue motor vehicle license plates and shall include a unique design and identifying number, whereby the total number of characters does not exceed an amount to be determined by the commissioner. No two recipients shall receive identically numbered plates. The agency, fund, or nonprofit corporation sponsoring the license plate may request the assignment of the first of 100 in a series of license plates upon payment of an additional initial registration fee of \$25.00 for each license plate requested.

(c) Notwithstanding the provisions of subsection (b) of this Code section, no special license plate shall be produced until such time as the State of Georgia has, through a licensing agreement or otherwise, received such licenses or other permissions as may be required to produce the special license plate. The design of the initial edition of any special license plate, as well as the design of subsequent editions and excepting only any part or parts of the designs owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The commissioner may take such steps as may be necessary to give notice of and protect such right, including the copyright or copyrights. However, such steps shall be cumulative of the ownership and exclusive use and control established by this subsection as a matter of law, and no person shall reproduce or otherwise use such design or designs, except as authorized by the commissioner.

(d) Any Georgia resident who is the owner of a motor vehicle, except a vehicle registered under the International Registration Plan, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles and upon the payment of a manufacturing fee of \$25.00 and a special license plate fee of \$35.00, in addition to the regular motor vehicle registration fee, shall be able to apply for a special license plate listed in subsection (l) of this Code section. Revalidation decals shall be issued for special license plates in the same manner as provided for general issue license plates, with the addition of a \$35.00 special license plate renewal fee, provided that special license plates issued pursuant to paragraph (9) of subsection (l) of this Code section shall be exempt from such special license plate renewal fee.

(e) The manufacturing fee, special license plate fee, and special license plate renewal fee derived from the sale of special license plates contained in subsection (l) of this Code section shall be deposited into the general fund. The sponsoring agency, fund, or nonprofit corporation, subject to the appropriation process of the General Assembly, may request that the funds derived from the sale of special license plates be appropriated to the department for disbursement to such agency, fund, or nonprofit corporation.

(f) Before the department disburses to the agency, fund, or nonprofit corporation funds from the sale of special license plates, the agency, fund, or nonprofit corporation must provide a written statement stating the manner in which such funds shall be utilized. In addition, a nonprofit corporation must provide the department with documentation of its nonprofit status under Section 501(c)(3) of Title 26 of the Internal Revenue Code. The purposes for which the funds shall be utilized must be the same as those specified in subsection (l) of this Code section authorizing the potential appropriation to the agency, fund, or nonprofit corporation of revenue from the sale of special license plates. The agency, fund, or nonprofit corporation shall periodically provide to the commissioner an audit of the use of the funds or other evidence of use of the funds satisfactory to the commissioner. If it is determined that the funds are not being used for the purposes set forth in the statement provided by the agency, fund, or nonprofit corporation, the department shall withhold payment of such funds until such noncompliance issues are resolved.

(g) An applicant may request a special license plate any time during the applicant's registration period. If such a license plate is to replace a current valid license plate, the special license plate shall be issued with appropriate decals attached, upon the payment of any applicable registration fees, the manufacturing fee, and the special license plate fee.

(h) No special license plate authorized pursuant to subsection (l) of this Code section shall be issued except upon the receipt by the

department of at least 1,000 prepaid applications along with the manufacturing fee. The special license plate shall have an application period of two years from the date of authorization for payment of the manufacturing fee. After such time if the minimum number of applications is not met, the department shall not continue to accept the manufacturing fee, and all fees shall be refunded to applicants; provided, however, that once the department has received 1,000 prepaid applications along with the manufacturing fee, the sponsor shall not be entitled to a refund.

(i) The department shall not be required to continue to manufacture the special license plate if the number of active registrations falls below 500 registrations at any time during the period provided for in subsection (b) of Code Section 40-2-31. A current registrant may continue to renew such special license plate during his or her annual registration period upon payment of an additional \$35.00 special license plate renewal fee, which fee shall be collected by the county tag agent at the time of collection of other registration fees and shall be remitted to the state as provided in Code Section 40-2-34. The department may continue to issue such special license plates that it has in its inventory to assist in achieving the minimum number of registrations. If the special license plate falls below 500 active registrations at any time during the period provided for in subsection (b) of Code Section 40-2-31, the sponsoring agency, fund, or nonprofit corporation shall be required again to obtain 1,000 prepaid applications accompanied by the manufacturing fee to continue to manufacture the special license plate.

(j) Special license plates shall be transferred from one vehicle to another vehicle in accordance with the provisions of Code Section 40-2-80.

(k) Special license plates shall be issued within 30 days of application once the requirements of this Code section have been met.

(l)(1) The General Assembly has determined that license plates promoting the agencies, funds, or nonprofit corporations listed in this subsection shall be issued for the purposes indicated and the revenue shall be deposited in the general fund, subject to the appropriation process of the General Assembly.

(2) A special license plate identifying persons with diabetes. The main purpose of the special license plate is that law enforcement officers and emergency personnel will be alerted to the potential for special needs before they approach the driver of a vehicle, especially if the vehicle has been involved in an accident. The funds raised by the sale of this special license plate shall be deposited in the general fund.

(3) A special license plate honoring all veterans who have served in the armed services of the United States. All of these men and women

have sacrificed a portion of their lives in order to serve their country and protect our freedom. The funds raised by the sale of this special license plate shall be deposited in the general fund.

(4) A special license plate honoring the Georgia Association of Realtors. The Association is being honored for its long-standing support of housing opportunities for all citizens of this state, private property rights, and all organizations that assist people in achieving the American dream of home ownership. The funds raised by the sale of this special license plate shall be deposited in the general fund.

(5) A special license plate honoring Georgia municipal clerks. The municipal clerk's office provides the professional link connecting citizens with their local governing bodies and agencies of government at other levels. The funds raised by the sale of this license plate shall be deposited in the general fund.

(6) A special license plate identifying residents of the State of Georgia who hold an unrevoked and unexpired official amateur radio station license issued by the Federal Communications Commission. The special license plate shall be inscribed with the official amateur radio call letters of such applicant as assigned by the Federal Communications Commission. The funds raised by the sale of this license plate shall be deposited in the general fund.

(7)(A) A special license plate to be issued for alternative fueled vehicles, which license plate shall be similar in design to the license plate issued to all other residents of this state except that the commissioner shall place a distinctive logo or emblem on the license plate which shall distinguish the vehicle as an alternative fueled vehicle eligible to travel in travel lanes designated for such vehicles under paragraph (4) of subsection (a) of Code Section 32-9-4. The words "alternative fueled vehicle" shall be imprinted on such special license plate in lieu of the county name decal. The funds raised by the sale of this license plate shall be deposited in the general fund.

(B) As used in this paragraph, the term:

(i) "Alternative fuel" means electricity, natural gas, and propane.

(ii) "Alternative fueled vehicle" means any vehicle fueled solely by alternative fuel as defined in division (i) of this subparagraph, bi-fuel, or dual fuel.

(C) Pursuant to paragraph (19) of subsection (a) of Code Section 40-2-151, the applicant for a special license plate for any alternative fueled vehicle shall provide proof that he or she has paid the

registration fee prescribed therein prior to the issuance of any special license plate under this paragraph.

(8) A special license plate for antique or hobby or special interest vehicles. As used in this paragraph, the term "antique or hobby or special interest vehicle" means any motor vehicle or motor cycle or a motor vehicle which has been designed and manufactured to resemble an antique or historical vehicle and which is owned as a collector's item and for participation in club activities, exhibitions, tours, parades and similar uses but which may be used for general transportation. No owner of such antique vehicle or hobby or special interest vehicle shall be required to obtain any special permits for its operation on the roads of this state. The funds raised by the sale of this license plate shall be deposited in the general fund.

(9)(A) A special license plate for owners of a private passenger car or truck used for personal transportation, who are firefighters certified pursuant to Article 1 of Chapter 4 of Title 25 and who are members of fire departments certified pursuant to Article 2 of Chapter 3 of Title 25 and motor vehicle owners who are certified firefighters of legally organized volunteer fire departments which have been certified pursuant to Article 2 of Chapter 3 of Title 25. Such license plate shall be inscribed with such letters, numbers, words, symbols, or a combination thereof as determined by the commissioner to identify the owner as a certified firefighter. The chiefs of the various fire departments shall furnish to the commissioner a list of the certified firefighters of their fire departments who reside in Georgia which list shall be updated as necessary. The funds raised by the sale of this license plate shall be deposited in the general fund.

(B) Should a certified firefighter who has been issued a special and distinctive license plate be separated from such firefighter's department for any reason other than retirement from employment, the chief of such fire department shall obtain the separated member's license plate at the time of the separation and shall forward same to the commissioner along with a certificate to the effect that such person has been separated, and thereupon the commissioner shall reissue a regular license plate, at no additional charge, to such former certified firefighter to replace the special and distinctive plate. Should a certified firefighter return to service with the same or another fire department, the chief of such fire department shall likewise secure the regular license plate of such person and return same to the commissioner, along with a certificate to the effect that such person has become a member of the fire department, and the effective date thereof, whereupon the commissioner shall, upon application and upon the payment of a \$35.00

manufacturing fee and all other applicable registration and licensing fees at the time of registration, reissue a special and distinctive license plate to such new member to replace the returned regular plate. Upon such request for a change in plate for a certified firefighter who is separated from a fire department, the chief of the fire department shall furnish such member with a copy of the chief's letter to the commissioner requesting the appropriate change in plate, which copy of such letter may be used by such member pending the issuance of the new plate.

(C) Motor vehicle owners who were firefighters certified pursuant to Article 1 of Chapter 4 of Title 25 or were members of fire departments certified pursuant to Article 2 of Chapter 3 of Title 25 and who retired from employment as such shall continue to be eligible for the firefighter license plates issued under this paragraph the same as if they continued to be certified and employed as firefighters. Whenever such a certified firefighter who has been issued a special and distinctive license plate is retired from employment with such firefighter's department, the chief of such fire department shall forward to the commissioner a certificate to the effect that such person has been retired.

(D) The spouse of a deceased firefighter shall continue to be eligible to be issued a distinctive special firefighter's license plate as provided in this paragraph so long as such person does not remarry.

(10) A special license plate supporting Rotary International. The design of the special license plate, excepting only the Rotary International logo and motto "Service Above Self" and the years 1905-2005 and any other part of the design owned by others and licensed to the state, shall be owned solely by the State of Georgia for its exclusive use and control, except as authorized by the commissioner. The funds raised by the sale of this license plate shall be deposited in the general fund.

(11) A special license plate for any Georgia resident who is the owner of a private passenger motor vehicle and provides proof of certification or licensure by the State of Georgia as an emergency medical technician, paramedic, or owner of a licensed ambulance service in the State of Georgia promoting the EMS Star of Life Symbol. Such license plate shall display the National Highway Traffic Safety Administration's EMS Star of Life Symbol and the initials "EMS." The funds raised by the sale of this license plate shall be deposited in the general fund. (Code 1981, § 40-2-86.22, enacted by Ga. L. 2006, p. 421, § 1/HB 710; Ga. L. 2007, p. 668, § 7/SB 81; Code 1981, § 40-2-86.1, as redesignated by Ga. L. 2010, p. 9, § 1-77/HB 1055; Ga. L. 2012, p. 155, § 7/HB 732; Ga. L. 2013, p. 141, § 40/HB 79; Ga. L. 2015, p. 236, § 3-1/HB 170.)

**The 2015 amendment**, effective July 1, 2015, in paragraph (l)(7), substituted “this state” for “the state” in the middle of the first sentence of subparagraph (l)(7)(A), rewrote subparagraph (l)(7)(B), and added subparagraph (l)(7)(C).

**Editor's notes.** — Ga. L. 2015, p. 236, § 8-1/HB 170, not codified by the General Assembly, provides that: “This Act shall be known and may be cited as the ‘Transportation Funding Act of 2015.’”

Ga. L. 2015, p. 236, § 8-2/HB 170, not codified by the General Assembly, provides that: “It is the intention of the General Assembly, subject to appropriations and other constitutional obligations of

this state, that year to year revenue increases be prioritized to fund education, transportation, and health care in this state.”

Ga. L. 2015, p. 236, § 9-1(b)/HB 170, not codified by the General Assembly, provides that: “Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of Title 48 of the Official Code of Georgia Annotated as it existed immediately prior to the effective date of this Act.” This Act became effective July 1, 2015.

## ARTICLE 6A

### ADMINISTRATION OF FEDERAL UNIFIED CARRIER REGISTRATION ACT OF 2005

#### 40-2-140. Department of Public Safety to administer provisions of this article; registration and fee requirements; evidence of continuing education; requirements for obtaining operating authority; collection, retention, and utilization of fees; regulatory compliance inspections; penalties.

(a) As used in this Code section, the term “commissioner” means the commissioner of public safety.

(b) The Department of Public Safety shall be the state agency responsible for the administration of the federal Unified Carrier Registration Act of 2005, which includes participating in the development, implementation, and administration of the Unified Carrier Registration Agreement.

(c) Every foreign or domestic motor carrier, leasing company leasing to a motor carrier, broker, or freight forwarder that engages in interstate commerce in this state shall register with the commissioner or a base state and pay all fees as required by the federal Unified Carrier Registration Act of 2005.

(d)(1) Any intrastate motor carrier, leasing company leasing to a motor carrier, broker, or freight forwarder that engages in intrastate commerce and operates a motor vehicle on or over any public highway of this state shall register with the commissioner and pay a fee determined by the commissioner.

(2) No for-hire intrastate motor carrier shall be issued a registration unless there is filed with the commissioner a certificate of

insurance for such applicant or holder, on forms prescribed by the commissioner, evidencing a policy of indemnity insurance by an insurance company licensed to do business in this state. Such policy shall provide for the protection of passengers in passenger vehicles and the protection of the public against the negligence of such for-hire intrastate motor carrier, and its servants or agents, when it is determined to be the proximate cause of any injury. The commissioner shall determine and fix the amounts of such indemnity insurance and shall prescribe the provisions and limitations thereof. The insurer shall file such certificate. Failure to file any form required by the commissioner shall not diminish the rights of any person to pursue an action directly against a for-hire intrastate motor carrier's insurer. The insurer may file its certificate of insurance electronically with the commissioner.

(3) The commissioner shall have the power to permit self-insurance in lieu of a policy of indemnity insurance whenever in his or her opinion the financial ability of the motor carrier so warrants.

(4) Any person having a cause of action, whether arising in tort or contract, under this Code section may join in the same cause of action the motor carrier and its insurance carrier.

(e) Before any intrastate motor carrier engaged in exempt passenger intrastate commerce shall operate any motor vehicle on or over any public highway of this state, the intrastate motor carrier shall register with the commissioner and pay a fee determined by the commissioner.

(f) Prior to the issuance of the initial registration to any intrastate motor carrier by the Department of Public Safety pursuant to subsection (d) or (e) of this Code section, that intrastate motor carrier shall furnish evidence to the Department of Public Safety that the intrastate motor carrier, through an authorized representative, has completed, within the preceding 12 months, an educational seminar on motor carrier operations and safety regulations that has been certified by the commissioner.

(g) In addition to any requirements under the federal Unified Carrier Registration Act of 2005, motor carriers required to have operating authority shall fulfill all applicable requirements for obtaining operating authority prior to any operation of a motor vehicle to which such requirements apply.

(h) The commissioner shall collect the fees imposed by this Code section and may establish rules and regulations and prescribe such forms as are necessary to administer this Code section and the federal Unified Carrier Registration Act of 2005. Notwithstanding the provisions of Code Section 40-2-131, the commissioner shall retain and

utilize such fees for motor carrier safety programs and enforcement and administration of this article.

(i) The commissioner, and persons he or she designates pursuant to Chapter 2 of Title 35, shall have the authority to perform regulatory compliance inspections under the provisions of Article 5 of Chapter 2 of Title 35 for purposes of determining compliance with laws and regulations, the enforcement and administration of which is the responsibility of the Department of Public Safety.

(j) Every officer, agent, or employee of any corporation and every person who fails to comply with this article or who procures, aids, or abets therein, shall be guilty of a misdemeanor. Misdemeanor violations of this article may be prosecuted, handled, and disposed of in the manner provided for in Chapter 13 of this title. (Code 1981, § 40-2-140, enacted by Ga. L. 2009, p. 629, § 2/HB 57; Ga. L. 2011, p. 479, § 10.2/HB 112; Ga. L. 2013, p. 756, § 2/HB 255; Ga. L. 2015, p. 60, § 4-5/SB 100.)

**The 2015 amendment**, effective July 1, 2015, in subsection (d), inserted “intra-state” near the beginning of paragraph (1), in paragraph (2), inserted “for-hire intra-state” three times, and deleted “or the Federal Motor Carrier Safety Administration or any successor agency” following “with the commissioner” in the first sentence; and substituted the present provisions of subsection (f) for the former provisions, which read “Before any motor carrier shall be registered under the federal Unified Carrier Registration Act of 2005 by the Department of Public Safety, that carrier shall furnish evidence to the Department of Public Safety that the car-

rier, through an authorized representative, has completed, within the preceding 12 months, an educational seminar on motor carrier operations and safety regulations that has been certified by the commissioner.” See editor’s note for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

## JUDICIAL DECISIONS

**Direct action against carrier’s insurer.** — In a personal injury action arising out of an automobile accident, O.C.G.A. § 40-2-140 allowed the injured plaintiff to assert a direct action against a foreign motor carrier’s insurer. *Cameron v. Teeberry Logistics*, No. 3:12-cv-181-TCB, 2013 U.S. Dist. LEXIS 186035 (N.D. Ga. May 21, 2013).

O.C.G.A. § 40-2-140(c)(4) permits a plaintiff having an action “under this Code section” to join a carrier’s insurer, and “section” here is best understood as

referring to § 40-2-140 as a whole. *Cameron v. Teeberry Logistics*, No. 3:12-cv-181-TCB, 2013 U.S. Dist. LEXIS 186035 (N.D. Ga. May 21, 2013).

In the absence of language stating otherwise, O.C.G.A. § 40-2-140(c)(4)’s reference to causes of action “under this Code section” must include not only causes of actions against insurers of carriers registered in Georgia, but also the insurers of those carriers that are traveling through Georgia but whose base state is a state other than Georgia. *Cameron v. Teeberry*,

Logistics, No. 3:12-cv-181-TCB, 2013 U.S.  
Dist. LEXIS 186035 (N.D. Ga. May 21,  
2013).

## ARTICLE 7

### MOTOR VEHICLE LICENSE FEES AND CLASSES

**40-2-151. Annual license fees for operation of vehicles; fee for permanent licensing of certain trailers; fee for new passenger car.**

(a) The annual fees for the licensing of the operation of vehicles shall be as follows for each vehicle registered:

(1) For each passenger motor vehicle not operated as a common or contract carrier for hire .....	\$ 20.00
(2) For each motorcycle .....	20.00
(3)(A) For each private commercial motor vehicle in accordance with the owner declared gross vehicle weight rating, as follows:	
(i) Less than 18,001 lbs. .....	25.00
(ii) 18,001 to 26,000 lbs. .....	38.00
(iii) 26,001 to 30,000 lbs. .....	45.00
(iv) 30,001 to 36,000 lbs. .....	70.00
(v) 36,001 to 44,000 lbs. .....	115.00
(vi) 44,001 to 54,999 lbs. .....	190.00
(vii) 55,000 to 63,280 lbs. .....	300.00
(viii) 63,281 lbs. to maximum permitted ....	400.00

(B) Subparagraph (A) of this paragraph notwithstanding:

- (i) A straight truck which is not a truck-tractor shall not be classified higher than \$75.00;
- (ii) A straight truck hauling fertilizer or agricultural products shall not be classified higher than \$31.00; and
- (iii) A truck-tractor hauling fertilizer, milk, or crops as defined in paragraph (7.1) of Code Section 1-3-3 shall not be classified higher than \$220.00;

(4) For each farm truck .....	20.00
(5) Except as otherwise specifically provided in this Code section, for each private trailer .....	20.00
(6)(A) For each farm trailer including, but not limited to, horse and cattle trailers, the maximum fee shall be \$12.00.	
(B) There shall be no fee for trailers:	
(i) Used exclusively to haul agricultural products from one place on the farm to another or from one farm or field to another;	
(ii) With no springs which are being employed in hauling unprocessed farm products to their market destination; and	
(iii) With no springs which are pulled from a tongue and used primarily to transport fertilizer to the farm;	
(7) For house trailers, auto trailers, and boat trailers, whether pulled by a private automobile or a private truck, and not used as or in connection with a motor vehicle, truck, or tractor used as a common or contract carrier for hire .....	12.00
(8) For trailers used as or in connection with a motor vehicle, truck, or tractor used as a common or contract carrier for hire .....	12.00
(9) For each motor bus or van-type vehicle used as a common or contract carrier for hire in public transportation transporting passengers, the following:	
(A) Weighing 10,000 pounds or less, \$1.90 per 100 pounds factory weight or fractional part of 100 pounds factory weight;	
(B) Weighing more than 10,000 pounds and not over 15,000 pounds factory weight, \$2.75 for each 100 pounds or fractional part of 100 pounds factory weight;	
(C) Weighing more than 15,000 pounds and not more than 20,000 pounds factory weight,	

\$3.45 for each 100 pounds or fractional part of 100 pounds factory weight; and

(D) Weighing more than 20,000 pounds factory weight, \$3.75 for each 100 pounds or fractional part of 100 pounds factory weight. No motor bus license fee shall exceed \$875.00;

(10)(A) For each commercial motor vehicle operated as a common or contract carrier for hire in accordance with owner declared gross vehicle weight rating, as follows:

(i) Less than 18,001 lbs. ....	25.00
(ii) 18,001 to 26,000 lbs. ....	38.00
(iii) 26,001 to 30,000 lbs. ....	85.00
(iv) 30,001 to 36,000 lbs. ....	130.00
(v) 36,001 to 44,000 lbs. ....	215.00
(vi) 44,001 to 54,999 lbs. ....	365.00
(vii) 55,000 to 63,280 lbs. ....	575.00
(viii) 63,281 lbs. to maximum permitted ....	725.00

(B) Subparagraph (A) of this paragraph notwithstanding, a straight truck which is not a truck-tractor shall not be classified higher than \$150.00;

(11) For each commercial motor vehicle leased to a common or contract carrier without regard to the duration of the lease and in accordance with the gross vehicle weight rating, the same license fees as required under paragraph (10) of this subsection;

(12) For each motor driven hearse or ambulance .... 20.00

(13) For each school bus operated exclusively in the transportation of pupils and teachers to and from schools or school activities or in the transportation of the owner and the members of his immediate family, the sum of \$20.00. A bus owned by a church or owned in common with other churches and used and operated exclusively for the church in transporting members and patrons to and from church or church

activities, when no part of the proceeds of the operation of the bus inures to the benefit of any private person, shall be licensed for the sum of \$20.00 in the same manner as school buses when the bus complies with the laws applicable to school buses;

(14) For each motor vehicle owned by the state or by a political subdivision or municipality of the state and used exclusively for governmental functions ..... 1.00

(15) For each motor vehicle used by carriers and operated under special franchise granted by the United States Department of Defense over a route of not more than 20 miles in length which is solely between a point in this state and a point within a United States military reservation in this state ..... 20.00

(16) Heavy earth-moving machinery, fertilizer application equipment, and crop protection chemical application equipment, not including trucks, which are used primarily off the highway shall not be required to be licensed under this article;

(17)(A) Trucks transporting logs, pulpwood, or other forest products shall be licensed in accordance with the following annual fees:

- (i) Straight trucks and truck-tractors pulling a single pole trailer hauling logs from the woods to the sawmill ..... 38.00
- (ii) Other truck-tractors ..... 220.00

(B) Skidders, tractors, and loaders used only in the woods shall not be required to be licensed. Trucks and truck-tractors specified in subparagraph (A) of this paragraph shall be licensed in accordance with this paragraph even though the trucks or truck-tractors are also used to transport skidders, tractors, loaders, and other logging equipment. Trucks and truck-tractors specified in subparagraph (A) of this paragraph shall not be required to pay additional fees or obtain additional license plates in order to transport logging equip-

ment owned by the owner of the trucks or truck-tractors;

(18) For each agricultural field use vehicle .....	31.00
(19)(A) (i) Upon registration of an alternative fueled vehicle not operated for commercial purposes .....	200.00
(ii) Upon registration of an alternative fueled vehicle operated for commercial purposes .....	300.00
(B) (i) As used in this paragraph, the term "alternative fueled vehicle" shall have the same meaning as in division (1)(7)(B)(ii) of Code Section 40-2-86.1; provided, however, that the fees in this paragraph shall not be assessed on vehicles which operate primarily on compressed natural gas, liquefied natural gas, or liquefied petroleum gas.	
(ii) The fees in this paragraph shall be in addition to any other fee imposed on the vehicle by this Code section.	
(iii) The fees in this paragraph shall be automatically adjusted on an annual basis by multiplying the percentage of increase or decrease in fuel efficiency from the previous year as measured by using the average of combined miles per gallon published in the United States Department of Energy Fuel Economy Guide against the current fee, and the resulting increase or decrease shall be added or subtracted from the fee. This preliminary fee adjustment shall then be multiplied by the increase or decrease in the Consumer Price Index percentage for the applicable year, and the result will be added or subtracted from the preliminary fee to produce the fee for the year. The first adjustment shall be calculated and implemented on July 1, 2016. The Consumer Price Index shall no longer be used after July 1, 2018.	

(b) In lieu of the annual fee provided in paragraphs (6), (7) or (8) of subsection (a) of this Code section, the optional one-time fee for a permanent registration and license plate for:

- (1) Any trailer used as or in connection with a motor vehicle, truck, or tractor used as a common or contract carrier for hire, a private carrier, or a motor carrier of property; or
- (2) Any boat trailer, utility trailer, or noncommercial cattle and livestock trailer authorized to obtain a permanent registration and license plate under the provisions of Code Section 40-2-47 shall be \$48.00.

(c) The fee for a new passenger car for which the purchaser has paid state and local title ad valorem taxes and that is being registered as provided in subsection (d) of Code Section 40-2-20 shall be \$40.00 for the two-year registration period. (Ga. L. 1937-38, Ex. Sess., p. 259, § 4; Ga. L. 1946, p. 77, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 371, § 1; Ga. L. 1955, p. 303, § 1; Ga. L. 1955, Ex. Sess., p. 38, § 1; Ga. L. 1957, p. 376, § 2; Ga. L. 1960, p. 777, § 2; Ga. L. 1960, p. 998, § 2; Ga. L. 1962, p. 450, § 1; Ga. L. 1964, p. 80, §§ 1, 2; Ga. L. 1966, p. 132, §§ 1, 2; Ga. L. 1966, p. 252, §§ 2, 3; Ga. L. 1974, p. 451, §§ 2-4; Ga. L. 1976, p. 694, § 1; Code 1933, § 91A-5302, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1978, p. 2210, § 1; Ga. L. 1979, p. 5, § 106; Ga. L. 1979, p. 1038, §§ 1-3; Code 1981, § 48-10-2; Ga. L. 1982, p. 3, § 48; Ga. L. 1983, p. 3, § 37; Ga. L. 1984, p. 22, § 48; Ga. L. 1984, p. 896, § 1; Ga. L. 1985, p. 1, §§ 1, 2; Ga. L. 1987, p. 348, § 1; Ga. L. 1990, p. 1883, § 5; Ga. L. 1991, p. 434, § 1; Ga. L. 1992, p. 6, § 48; Ga. L. 1992, p. 779, § 27; Ga. L. 1994, p. 1373, § 2; Ga. L. 1995, p. 10, § 48; Ga. L. 1995, p. 742, § 3; Ga. L. 1998, p. 1580, §§ 4, 5; Code 1981, § 40-2-151, as redesignated by Ga. L. 2002, p. 1074, §§ 1, 4; Ga. L. 2004, p. 1063, § 1; Ga. L. 2007, p. 652, § 7/HB 518; Ga. L. 2008, p. 324, § 40/SB 455; Ga. L. 2008, p. 835, § 4/SB 437; Ga. L. 2009, p. 449, § 3/SB 128; Ga. L. 2015, p. 236, § 3-2/HB 170; Ga. L. 2015, p. 836, § 2/HB 147.)

**The 2015 amendments.** — The first 2015 amendment, effective July 1, 2015, added paragraph (a)(19). The second 2015 amendment, effective July 1, 2015, added subsection (c).

**Editor's notes.** — Ga. L. 2015, p. 236, § 8-1/HB 170, not codified by the General Assembly, provides that: "This Act shall be known and may be cited as the 'Transportation Funding Act of 2015.'"

Ga. L. 2015, p. 236, § 8-2/HB 170, not codified by the General Assembly, provides that: "It is the intention of the General Assembly, subject to appropriations and other constitutional obligations of

this state, that year to year revenue increases be prioritized to fund education, transportation, and health care in this state."

Ga. L. 2015, p. 236, § 9-1(b)/HB 170, not codified by the General Assembly, provides that: "Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of Title 48 of the Official Code of Georgia Annotated as it existed immediately prior to the effective date of this Act." This Act became effective July 1, 2015.

**40-2-151.1. Highway impact fees for heavy vehicles; use of funds.**

(a) As used in this Code section, the term "transportation purposes" means and includes roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including general obligation debt and other multiyear obligations issued to finance such purposes.

(b) In conjunction with the payment of fees for the licensing of the operation of vehicles pursuant to Code Section 40-2-151, certain heavy vehicles registered in Georgia shall pay a highway impact fee. The annual fees shall be as follows for each such vehicle registered:

(1) 15,500 lbs. up to 26,000 lbs. ....	\$ 50.00
(2) Greater than 26,001 lbs. ....	100.00

(c) It is the intention of the General Assembly, subject to appropriations, that the fees collected pursuant to subsection (b) of this Code section shall be made available and used exclusively for transportation purposes in this state.

(d) If the amount collected under this Code section is ever not appropriated for a fiscal year as provided by subsection (c) of this Code section, as determined jointly by the House Budget and Research Office and the Senate Budget and Evaluation Office, then the amount collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in which an amount is not so appropriated, this Code section shall stand repealed and reserved, and such fees shall cease to be collected, on the date the appropriations Act for such fiscal year becomes effective. Such budget offices shall certify any such lack of appropriation to the Code Revision Commission for purposes of updating the Code in accordance with this subsection. (Code 1981, § 40-2-151.1, enacted by Ga. L. 2015, p. 236, § 3-3/HB 170.)

**Effective date.** — This Code section became effective July 1, 2015.

**Editor's notes.** — Ga. L. 2015, p. 236, § 8-1/HB 170, not codified by the General Assembly, provides that: "This Act shall be known and may be cited as the 'Transportation Funding Act of 2015.'"

Ga. L. 2015, p. 236, § 8-2/HB 170, not codified by the General Assembly, provides that: "It is the intention of the General Assembly, subject to appropriations and other constitutional obligations of

this state, that year to year revenue increases be prioritized to fund education, transportation, and health care in this state."

Ga. L. 2015, p. 236, § 9-1(b)/HB 170, not codified by the General Assembly, provides that: "Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of Title 48 of the Official Code of Georgia Annotated as

it existed immediately prior to the effective date of this Act." This Act became effective July 1, 2015.

**40-2-152. Fees for apportionable vehicles; restricted license plates for vehicles.**

(a) Except as otherwise provided for in this Code section, the annual fee for all apportionable vehicles not operated as a common or contract carrier for hire in accordance with owner declared gross vehicle weight or combined vehicle gross weight shall be as follows:

(1) Less than 30,001 lbs. ....	\$ 45.00
(2) 30,001 to 36,000 lbs. ....	70.00
(3) 36,001 to 44,000 lbs. ....	115.00
(4) 44,001 to 54,999 lbs. ....	190.00
(5) 55,000 to 63,280 lbs. ....	300.00
(6) 63,281 lbs. to maximum permitted ....	400.00

(b) Except as otherwise provided for in this Code section, the annual fee for all apportionable vehicles operated as a common or contract carrier for hire in accordance with owner declared gross vehicle weight or combined vehicle gross weight shall be as follows:

(1) Less than 30,001 lbs. ....	\$ 85.00
(2) 30,001 to 36,000 lbs. ....	130.00
(3) 36,001 to 44,000 lbs. ....	215.00
(4) 44,001 to 54,999 lbs. ....	365.00
(5) 55,000 to 63,280 lbs. ....	575.00
(6) 63,281 lbs. to maximum permitted ....	725.00

(c) For each apportionable motor bus or van-type vehicle, the fee shall be \$3.75 for each 100 pounds or fractional part of 100 pounds factory weight. No motor bus license fee amount shall exceed \$875.00.

(d) Trucks transporting logs, pulpwood, or other forest products shall be issued restricted license plates, and the fees shall be as enumerated in Code Section 40-2-151.

(e) Each school bus operated exclusively in the transportation of pupils and teachers to and from schools or school activities or in the transportation of the owner and his or her immediate family shall be issued a restricted license plate for the sum of \$5.00. A bus owned by a church or owned in common with other churches and used and operated exclusively for the church in transporting members and patrons to and

from church or church activities, when no part of the proceeds of the operation of the bus inures to the benefit of any private person, shall be issued a restricted license plate for the sum of \$5.00 in the same manner as school buses when the bus complies with the laws applicable to school buses.

(f) A truck or a truck-tractor hauling fertilizer, milk, or crops as defined in paragraph (7.1) of Code Section 1-3-3 shall be issued a restricted license plate with the fee computed in accordance with Code Section 40-2-151.

(g) A farm vehicle shall be issued a restricted license plate with the fee computed in accordance with Code Section 40-2-151.

(h) Only for apportionable vehicles registered under subsection (a), (b), or (c) of this Code section:

(1) Each such apportionable vehicle shall be subject to an annual alternative ad valorem tax on such apportionable vehicle as authorized under Article VII, Section I, Paragraph (b)(3) of the Constitution. Such alternative ad valorem tax shall be in the amount specified in subsection (k) of this Code section and shall be collected by the commissioner at the same time as the registration fee required under subsection (a), (b), or (c) of this Code section;

(2) Notwithstanding the provisions of Code Section 48-5-442.1, no ad valorem tax shall be assessed against such apportionable vehicle other than the alternative ad valorem tax under this Code section except that such apportionable vehicle shall not be relieved for any such ad valorem tax which accrued and was due and payable prior to registration under the International Registration Plan; and

(3) The full amount of such alternative ad valorem tax proceeds shall not constitute fees for purposes of Code Section 40-2-131. Such proceeds shall be retained by the commissioner in a separate, segregated account for the purpose of allocation and distribution under subsection (m) of this Code section.

(i) For all trailers and semitrailers owned by fleets whose tractors are registered under the International Registration Plan, the apportioned value for ad valorem taxes shall be determined as provided in Code Section 48-5-442.1.

(j) For all trailers and semitrailers owned by fleets whose tractors are registered under the International Registration Plan, payment of ad valorem taxes shall be accepted by the department upon request of the taxpayer regardless of the county in which such trailer is domiciled.

(k) Each apportionable vehicle identified under subsection (a), (b), or (c) of this Code section shall be subject to an alternative ad valorem tax

which shall be determined by the value and rate assigned to each weight class. Each weight class shall be a separate subclass of motor vehicle, and the value of each vehicle shall remain the value for each tax year as follows:

- (1) Less than 30,001 lbs. shall be valued at \$15,000.00 and taxed at \$50.00 per year;
- (2) 30,001 to 36,000 lbs. shall be valued at \$25,000.00 and taxed at \$75.00 per year;
- (3) 36,001 to 44,000 lbs. shall be valued at \$40,000.00 and taxed at \$125.00 per year;
- (4) 44,001 to 54,999 lbs. shall be valued at \$55,000.00 and taxed at \$175.00 per year;
- (5) 55,000 to 63,280 lbs. shall be valued at \$75,000.00 and taxed at \$225.00 per year; and
- (6) 63,281 lbs. to maximum permitted shall be valued at \$95,000.00 and taxed at \$275.00 per year.

(l) The commissioner shall add the alternative ad valorem tax in subsection (k) of this Code section to the vehicle registration fees in subsection (a), (b), or (c) of this Code section, prior to apportionment of those fees. The alternative ad valorem tax shall be apportioned on the same basis and in the same manner as the apportionable registration fees and collected at the same time.

(m)(1) The alternative ad valorem tax imposed by this Code section shall be collected by the commissioner and shall be distributed annually from the separate, segregated fund not later than August 1 of the calendar year immediately following the calendar year in which such taxes were paid to the commissioner, in the manner provided for in this subsection.

(2)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.

(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be allocated by county based upon the ratio of the number of apportioned vehicles attributed by the commissioner on an annual basis to each county to the number of apportioned vehicles submitted to and approved by the commissioner statewide. The proceeds so allocated shall then be distributed to each qualified tax jurisdiction within the county based upon the ratio of the most recently submitted and approved tax digest for each such qualified tax jurisdiction to the total of all tax digests of qualified tax

jurisdictions located in the county. Qualified jurisdictions include only counties, municipalities, county school districts, and independent school districts which levy or cause to be levied for their benefit a property tax on real and tangible personal property.

(n)(1) The provisions of subsection (m) of this Code section shall be suspended for the 2015, 2016, 2017, 2018, and 2019 tax years, and the provisions of this subsection shall apply during such period. This subsection shall stand repealed on January 1, 2020.

(2) The alternative ad valorem tax imposed by this Code section shall be collected by the commissioner and shall be distributed annually from the separate, segregated fund not later than April 1 of the calendar year immediately following the calendar year in which such taxes were paid to the commissioner, in the manner provided for in this subsection.

(3) Except as provided in paragraph (4) of this subsection, each year, the distributions of alternative ad valorem tax proceeds under this subsection shall be based upon the immediately preceding year's tax digest of each qualified tax authority submitted to and approved by the commissioner. If such digest has not been submitted and approved, the commissioner shall, for purposes of this subsection, utilize in its place the most recently submitted and approved tax digest of such qualified tax jurisdiction.

(4)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.

(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be divided among each qualified tax jurisdiction of this state. Such qualified tax jurisdictions shall be limited to only a county, municipality, county school district, and independent school district which levies or causes to be levied for their benefit a property tax on real and tangible personal property. The commissioner shall determine the amount of ad valorem tax on apportionable vehicles identified under subsections (a), (b), and (c) of this Code section that was received by each qualified tax jurisdiction for the 2013 tax year. Such amount shall represent the benchmark amount for such qualified tax jurisdiction:

(i) For the 2015 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to such benchmark amount;

- (ii) For the 2016 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 80 percent of such benchmark amount;
- (iii) For the 2017 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 60 percent of such benchmark amount;
- (iv) For the 2018 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 40 percent of such benchmark amount;
- (v) For the 2019 tax year, each qualified tax jurisdiction shall receive an amount of alternative ad valorem tax revenue equal to 20 percent of such benchmark amount; and
- (vi) For all tax years beginning on or after January 1, 2020, each qualified tax jurisdiction shall receive the amount of alternative ad valorem tax revenue determined pursuant to subsection (m) of this Code section.

(C) In the event that the amount of ad valorem tax on apportionable vehicles collected in a tax year covered under this subsection is less than the benchmark amount, then the benchmark distribution of each qualified tax jurisdiction for such tax year shall be reduced proportionately to reflect the amount of such shortfall. In the event a qualified tax jurisdiction ceases to be a qualified tax jurisdiction, it shall not be entitled to receive a distribution of either the benchmark amount under this subparagraph or the remaining distribution amount under subparagraph (D) of this paragraph.

(D) When a qualified tax jurisdiction has received an amount equal to the prorated benchmark amount pursuant to subparagraph (B) of this paragraph for the applicable tax year, any funds remaining with the commissioner shall be distributed in accordance with the formula contained in subparagraph (m)(2)(B) of this Code section. (Code 1981, § 48-10-2.1, enacted by Ga. L. 1990, p. 1883, § 6; Ga. L. 1992, p. 771, § 28; Code 1981, § 40-2-152, as redesignated by Ga. L. 2002, p. 1074, §§ 1, 5; Ga. L. 2004, p. 1063, § 2; Ga. L. 2008, p. 835, § 5/SB 437; Ga. L. 2013, p. 32, § 2/HB 463; Ga. L. 2014, p. 866, § 40/SB 340; Ga. L. 2015, p. 30, § 1/SB 82.)

**The 2015 amendment**, effective March 31, 2015, substituted the present provisions of subsection (m) for the former provisions, which read: "(m)(1) The alternative ad valorem tax imposed by this Code section shall be collected by the commissioner and shall be distributed an-

nually from the separate, segregated fund not later than April 1 of the calendar year immediately following the calendar year in which such taxes were paid to the commissioner, in the manner provided for in this subsection.

"(2) Each year, the distributions of alter-

native ad valorem tax proceeds under this subsection shall be based upon the immediately preceding year's tax digest of each participating tax authority submitted to and approved by the commissioner. If such digest has not been submitted and approved, the commissioner shall, for purposes of this subsection, utilize in its place the most recently submitted and approved tax digest of such participating tax jurisdiction.

"(3)(A) One percent of the alternative ad valorem tax collected by the commissioner shall be paid into the general fund of the state treasury in order to defray costs of administration.

"(B) Except for the amount provided in subparagraph (A) of this paragraph, the remaining proceeds of the alternative ad valorem tax shall be divided among each tax jurisdiction of this state. Such tax jurisdictions shall be limited to only a

county, municipality, county school district, and independent school district which levies or causes to be levied for their benefit a property tax on real and tangible personal property.

"(C) The distribution shall be made according to the proportion that the amount of ad valorem taxes to be collected by a tax jurisdiction under the tax digest specified under paragraph (2) of this subsection bears to the total amount of ad valorem taxes to be collected for all purposes applicable to real and tangible personal property in this state for the immediately preceding calendar year."; and added subsection (n).

**Editor's notes.** — Ga. L. 2015, p. 30, § 4(b)/SB 82, not codified by the General Assembly, provides that: "Section 1 of this Act shall apply to all disbursements which occur after the effective date of this Act."

#### **40-2-168. (For effective date, see note.) Registration and licensing of taxicabs and limousines.**

(a) Owners of a taxicab or limousine, prior to commencing operation in this state, shall, upon complying with the motor vehicle laws relating to registration and licensing of motor vehicles, and the payment of an annual registration fee of \$25.00, be issued a distinctive license plate by the commissioner. Such distinctive license plate shall be designed by the commissioner and displayed on the vehicle as provided in Code Section 40-2-41. The certificate of registration shall be kept in the vehicle. Revalidation decals shall be issued, upon payment of fees required by law, in the same manner as provided for general issue license plates. Such license plates shall be transferred from one vehicle to another vehicle of the same class and acquired by the same person as provided in Code Section 40-2-42. For all existing registrations, except during the owner's registration period as provided in Code Section 40-2-21, the commissioner shall exchange and replace any current and valid registration and license plate at no charge to the owner. Such license plates shall not be issued to any owner of a taxicab or limousine, as such term is defined in paragraph (4) of Code Section 40-1-151, that is not properly licensed as such by the Department of Public Safety or a political subdivision of this state.

(b)(1) As used in this subsection, the term "for-hire vehicle" means a motor vehicle used in this state by a limousine carrier, ride share network, ride share network driver, or taxi service, as such terms are defined in Code Section 40-1-190, for the purpose of transporting passengers for compensation or donation.

(2) On and after July 1, 2017, an owner of each for-hire vehicle, prior to commencing operations in this state and annually thereafter, shall obtain a for-hire vehicle master license from the department. The department shall issue a decal or certificate for each motor vehicle covered under such master license, and the owner shall display such decal on such vehicle at all times in the manner prescribed by the department by rule or regulation or shall maintain a copy of the certificate in the covered vehicle or electronically on the driver's smartphone which certificate shall be displayed to law enforcement personnel or agents of the department upon request. With regard to ride share drivers who are employed directly by a ride share network service or who operate as independent contractors for a ride share network service, the ride share network service shall be responsible for obtaining a master license for all of its affiliated ride share drivers. The obtaining of a master license shall not operate to relieve a taxi service, a limousine carrier, a ride share network service, or the owner of a for-hire vehicle from sales and use taxes on fares which were previously incurred.

(3) The owner of each for-hire vehicle in operation in this state on July 1, 2017, shall obtain a for-hire master license from the department prior to such date and shall obtain a decal or certificate for each motor vehicle covered under such master license, and the owner shall either display such decal on such vehicle at all times in the manner prescribed by the department by rule or regulation or shall maintain a copy of the certificate in the covered vehicle or electronically on the driver's smartphone which certificate shall be displayed to law enforcement personnel or agents of the department upon request. With regard to ride share drivers who are employed directly by a ride share network service or who operate as independent contractors for a ride share network service, the ride share network service shall be responsible for obtaining a master license for all of its affiliated ride share drivers. The obtaining of a master license shall not operate to relieve a taxi service, a limousine carrier, a ride share network service, or the owner of a for-hire vehicle from sales and use taxes on fares which were previously incurred.

(4) The annual fee for such master license shall be as follows:

(A) For 1 to 5 for-hire vehicles .....	\$ 1,500.00
(B) For 6 to 59 for-hire vehicles .....	12,050.00
(C) For 60 to 100 for-hire vehicles .....	25,000.00
(D) For 101 to 150 for-hire vehicles .....	40,000.00
(E) For 151 to 200 for-hire vehicles .....	56,000.00
(F) For 201 to 250 for-hire vehicles .....	75,000.00

(G) For 251 to 300 for-hire vehicles .....	90,000.00
(H) For 301 to 350 for-hire vehicles .....	105,000.00
(I) For 351 to 500 for-hire vehicles .....	150,000.00
(J) For 501 to 1,000 for-hire vehicles .....	300,000.00
(K) For 1,001 and greater for-hire vehicles .....	300,000.00
	plus \$25,000.00 for each additional 100 vehicles or fraction thereof.

Decals or certificates shall be issued in connection with the master license at no charge by the department. The number of vehicles shall be determined by adding the number of for-hire vehicles utilized by the owner during each of the preceding months in the immediately preceding 12 month period and dividing such sum by 12.

(5) Of this annual master license fee, 57 percent shall be retained by the state for deposit in the general fund of the state treasury. At the time of payment of the annual master license fee, the owner obtaining the master license shall provide to the department a written declaration setting forth the county or counties in which vehicles operate. The remaining 43 percent of the annual master license fee shall be divided by the department proportionately according to population to the county or counties set forth in such declaration. The proportional amounts shall be distributed to the county tag agent in each such county to allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school system, and the board of education of any independent school system located in such county in the manner provided in this paragraph:

(A) An amount equal to one-third of such proceeds shall be distributed to the board of education of the county school system and the board of education of each independent school system located in such county in the same manner as required for any local sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of Chapter 8 of Title 48 currently in effect. If such tax is not currently in effect, such proceeds shall be distributed to such board or boards of education in the same manner as if such tax were in effect;

(B)(i) Except as otherwise provided in this subparagraph, an amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under the distribution certificate

for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in effect;

(ii) If such tax were never in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county;

(iii) If such tax is currently in effect as well as a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment, an amount equal to one-third of such proceeds shall be distributed in the same manner as required under division (i) of this subparagraph and an amount equal to one-third of such proceeds shall be distributed to the board of education of the county school system;

(iv) If such tax is not currently in effect and a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment is currently in effect, such proceeds shall be distributed to the board of education of the county school system and the board of education of any independent school system in the same manner as required under such local constitutional amendment; and

(v) If such tax is not currently in effect and a homestead option sales and use tax under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be distributed to the governing authority of the county, each qualified municipality, and each existing municipality in the same proportion as otherwise required under Code Section 48-8-104; and

(C)(i) An amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under an intergovernmental agreement or as otherwise required under the county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 currently in effect; provided, however, that this division shall not apply if division (iii) of subparagraph (B) of this paragraph is applicable.

(ii) If such tax were in effect but expired and is not currently in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as if such tax were still in effect according to an intergovernmental agreement or as otherwise required under the county

special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period commencing at the expiration of such tax. If such tax is not renewed prior to the expiration of such 12 month period, such amount shall be distributed in accordance with division (i) of subparagraph (B) of this paragraph; provided, however, that if a tax under Article 2 of Chapter 8 of Title 48 is not in effect, such amount shall be distributed in accordance with division (ii) of subparagraph (B) of this paragraph.

(iii) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds shall be distributed to the governing body of the authority created by local Act to operate such metropolitan area system of public transportation.

(iv) If such tax were never in effect, such proceeds shall be distributed in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in effect; provided, however, that if such tax under such article is not in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(6) On and after July 1, 2017, it shall be illegal for a taxi service, a limousine carrier, a ride share network service, or an owner of a for-hire vehicle who is providing transportation services to fail to display a current tax decal or maintain a physical or electronic certificate in such vehicle as prescribed by this subsection and as may be required by the department by rule or regulation. Any person who violates this paragraph shall be guilty of a misdemeanor of a high and aggravated nature and additionally shall be subject to a civil fine of not more than \$5,000.00 per violation.

(7) This subsection shall be repealed by operation of law on July 1, 2017. (Code 1981, § 40-2-168, enacted by Ga. L. 2010, p. 143, § 6/HB 1005; Ga. L. 2015, p. 1262, § 4/HB 225.)

**Delayed effective date.** — This Code section, as set out above, becomes effective July 1, 2016. For version of this Code

section in effect until July 1, 2016, see the 2015 amendment note.

**The 2015 amendment**, effective July

1, 2016, designated the previously existing provisions of this Code section as subsection (a); in subsection (a), deleted the former sixth sentence, which read "The transition period shall commence on May

20, 2010, and conclude no later than December 31, 2010, for all existing registrations.", and added the last sentence; and added subsection (b).

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## **CHAPTER 3**

### **CERTIFICATES OF TITLE, SECURITY INTERESTS, AND LIENS**

#### **Article 1 General Provisions**

Sec.

40-3-4. Exclusions.

#### **ARTICLE 1 GENERAL PROVISIONS**

##### **40-3-4. Exclusions.**

No certificate of title shall be obtained for:

- (1) A vehicle owned by the United States unless it is registered in this state;
- (2) A vehicle owned by a manufacturer of or dealer in vehicles and held for sale, even though incidentally used on the highway or used for purpose of testing or demonstration; a vehicle owned by a manufacturer headquarters or its affiliate and registered and licensed pursuant to Code Section 40-2-38; a vehicle owned by a dealer in vehicles but used by any Georgia public or private school for driver education purposes; or a vehicle used by a manufacturer solely for testing; except that all dealers acquiring new vehicles after July 1, 1962, from a manufacturer for resale shall obtain such evidence of origin of title from the manufacturer as the commissioner shall by rule and regulation prescribe;
- (3) A vehicle owned by a nonresident of this state and not required by law to be registered in this state;
- (4) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state;
- (5) A vehicle moved solely by human or animal power;

- (6) An implement of husbandry;
- (7) Special mobile equipment;
- (8) A self-propelled wheelchair or invalid tricycle;
- (9) A pole trailer;
- (10) Motor buses used for the transportation of persons by a street railroad or other company engaged in the operation of an urban transit system over fixed routes;
- (11) A boat trailer;
- (12) A homemade trailer;
- (13) A device used exclusively upon stationary rails or tracks or which obtains motive power from fixed overhead electric wires;
- (14)(A) A vehicle, other than a mobile home or crane, the model year of which is prior to 1986.

(B) The owner of any vehicle which has a valid certificate of title and which becomes subject to the exclusion provided in subparagraph (A) of this paragraph may retain the certificate of title. Each subsequent transferee of any vehicle covered by subparagraph (A) of this paragraph, for which the certificate of title has been retained, may obtain a certificate of title by complying with Code Section 40-3-32. However, the failure of any subsequent transferee to comply with Code Section 40-3-32 shall preclude transferees subsequent to that transferee from obtaining a certificate of title. The department shall maintain such records as may be necessary to allow owners to obtain a certificate of title under this subparagraph. No certificate of title authorized to be issued under this subparagraph shall be issued under Code Section 40-3-28.

(C)(i) A security interest in or lien against a vehicle which is subject to the exclusion provided for in subparagraph (A) of this paragraph and which arises after such vehicle becomes subject to the operation of subparagraph (A) of this paragraph may be perfected in the same manner as such security interests and liens are perfected on vehicles required by this chapter to have certificates of title.

(ii) The transferee of any vehicle which is subject to the exclusion provided for in subparagraph (A) of this paragraph, regardless of whether that vehicle has a certificate of title issued pursuant to subparagraph (B) of this paragraph, shall take such vehicle subject to any security interest or lien perfected under this paragraph;

(15)(A) Except as provided in subparagraph (B) of this paragraph, a trailer with an unladen gross weight of 2,000 pounds or less.

(B) The exclusion provided in subparagraph (A) of this paragraph shall not apply to a travel trailer or camper, regardless of its unladen gross weight;

(16) A vehicle which is not sold for the purpose of lawful highway use;

(17) A vehicle with a model year prior to 1963;

(18) A moped; or

(19) A personal transportation vehicle. (Ga. L. 1961, p. 68, § 4; Ga. L. 1962, p. 79, § 2; Ga. L. 1964, p. 178, § 2; Ga. L. 1980, p. 518, § 2; Ga. L. 1981, p. 617, § 1; Ga. L. 1985, p. 1271, § 1; Ga. L. 1987, p. 655, § 2; Ga. L. 1990, p. 2048, § 3; Ga. L. 1993, p. 1260, § 5; Ga. L. 1994, p. 97, § 40; Ga. L. 1994, p. 741, § 1; Ga. L. 1997, p. 143, § 40; Ga. L. 1997, p. 1515, § 1; Ga. L. 1998, p. 1179, §§ 31, 32; Ga. L. 1999, p. 334, § 3; Ga. L. 2000, p. 951, § 4-2; Ga. L. 2002, p. 506, § 4; Ga. L. 2002, p. 512, § 8; Ga. L. 2014, p. 745, § 3/HB 877; Ga. L. 2015, p. 1219, § 3/HB 202.)

**The 2015 amendment**, effective May 6, 2015, inserted “a vehicle owned by a manufacturer headquarters or its affiliate

and registered and licensed pursuant to Code Section 40-2-38;” near the middle of paragraph (2).

## CHAPTER 5

### DRIVERS' LICENSES

#### Article 1

##### General Provisions

Sec.	Article 1	Sec.	Article 1
40-5-1.	Definitions.	40-5-25.	ments; driving training requirements; limited driving permit.
40-5-2.	Keeping of records of applications for licenses and information on licensees; furnishing of information.		(For effective date, see note.) Applications; fees; waiver of fees; provisions for voluntary participation in various programs.
40-5-6.	Forms for making of anatomical gifts upon issuance or renewal of driver's license or personal identification card.	40-5-27.	Examination of applicants.
		40-5-28.	Issuance of licenses; contents; signature required; biological identifiers prohibited; county tag agents; Class E and Class F licenses for volunteer firefighters.

#### Article 2

##### Issuance, Expiration, and Renewal of Licenses

40-5-22.	Persons not to be licensed; minimum ages for licensees; school enrollment require-	40-5-39.	Requirements for operation of a motor vehicle for hire; for-hire license endorsements and eligibility; term; background checks.
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**Article 3****Cancellation, Suspension, and Revocation of Licenses**

Sec.

40-5-54. Mandatory suspension of license; notice of suspension.

40-5-57.1. Suspension of licenses of persons under age 21 for certain offenses; surrender of license to court upon conviction; suspension of licenses of persons under age 18 for certain point accumulations; reinstatement of license following suspension.

40-5-57.2. Suspension based on violation of Code Section 40-6-255 [Repealed].

40-5-63. Periods of suspension; conditions to return of license.

40-5-64. Limited driving permits for certain offenders.

**Article 3A****Suspension of License for Being in Control of a Moving Vehicle Under the Influence of a Controlled Substance or Marijuana**

40-5-75. Suspension of licenses by operation of law.

**Article 4****Restoration of Licenses to Persons Completing Defensive Driving Course or Alcohol or Drug Program**

40-5-81. Program optional; certification and approval of courses; prohibited behavior by a clinic or program.

40-5-83. Establishment, approval, and operation of clinics and programs; out-of-state certificates of completion; instructor licenses; fees; submission of fingerprints by applicants.

**Article 5****Identification Cards for Persons Without Drivers' Licenses**

40-5-100. Department authorized to is-

Sec.

sue cards; contents; possession of more than one card prohibited; application for renewal; dissemination of information regarding voluntary programs.

**Article 6****Miscellaneous Offenses and Jurisdiction of Offenses**

40-5-121. Driving while license suspended or revoked.

40-5-124. Jurisdiction of offenses.

40-5-125. Fraudulent driver's license or identification card; false statements or commission of fraud in applications; criminal violation.

**Article 7****Commercial Drivers' Licenses**

40-5-142. Definitions.

40-5-147. Requirements for issuance of license or instruction permit; administration of skills test by third party; waiver or exemption; disqualification and notice.

40-5-150. Contents of license; classifications; endorsements and restrictions; information to be obtained before issuance; notice of issuance; expiration of license; renewal.

40-5-151. Disqualification from driving; action required after suspending, revoking, or canceling license or nonresident privileges.

40-5-159. Violations.

**Article 8****Identification Cards for Persons with Disabilities**

40-5-171. Issuance and contents of identification cards for persons with disabilities.

**ARTICLE 1**  
**GENERAL PROVISIONS**

**40-5-1. Definitions.**

As used in this chapter, the term:

- (1) "Assessment component" means the standard screening instrument or instruments designated by the Department of Driver Services which are used to screen for the extent of an individual's alcohol or drug use and its impact on driving.
- (2) Reserved.
- (3) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's license because of some error or defect in the license or because the licensee is no longer entitled to such license. The cancellation of a license is without prejudice, and application for a new license may be made at any time after such cancellation.
  - (3.1) "Clinical evaluation" means an evaluation under Chapter 7 of Title 37 at a facility to diagnose an individual's substance abuse or dependence and, if indicated, to refer the individual to appropriate treatment.
- (4) "Code Section 40-6-391" means Code Section 40-6-391 of the Official Code of Georgia Annotated, as now or hereafter amended, any federal law or regulation substantially conforming to or parallel with the offense covered under Code Section 40-6-391, any local ordinance adopted pursuant to Article 14 of Chapter 6 of this title, which ordinance adopts the provisions of Code Section 40-6-391, or any previously existing or existing law of this or any other state, which law was or is substantially conforming to or parallel with Code Section 40-6-391.
- (5) "Commissioner" means the commissioner of driver services.
- (6) "Conviction" means a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a traffic violation charge, regardless of whether the sentence is suspended, probated, or rebated.
- (7) "Department" means the Department of Driver Services.
- (8) "Disqualification of driver's license" means a prohibition against driving a commercial motor vehicle.
- (9) "For hire" means to operate a motor vehicle in this state for the purpose of transporting passengers for compensation or donation as

a limousine carrier, ride share network or driver, or taxi service as such terms are defined in Code Section 40-1-190.

(9.1) "For-hire license endorsement" means an endorsement to a driver's license pursuant to Code Section 40-5-39 that authorizes the holder of the license to operate a motor vehicle for the purpose of transporting passengers in this state for compensation or donation as a limousine carrier, ride share network or driver, or taxi service as such terms are defined in Code Section 40-1-190.

(10) "Intervention component" means a program which delivers therapeutic education about alcohol and drug use and driving and peer group counseling concerning alcohol and drug use over a period of 20 hours utilizing a methodology and curriculum approved and certified by the Department of Driver Services for the DUI Alcohol or Drug Use Risk Reduction Programs under subsection (e) of Code Section 40-5-83.

(11) "Limousine carrier" means any limousine company or provider which is licensed with this state pursuant to paragraph (5) of Code Section 40-1-151.

(12) "Mail" means to deposit in the United States mail properly addressed and with postage prepaid. For purposes of payment of a reinstatement or restoration fee for a driver's license suspension or revocation, "mail" shall also mean payment via means other than personal appearance.

(13) "Owner" means a person other than a lienholder or security interest holder having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a lien or security interest in another person, but excludes a lessee under a lease not intended as security.

(13.5) "Personal information" means any information that identifies a person, including but not limited to an individual's fingerprint, photograph, or computerized image, social security number, driver identification number, name, address (other than five-digit ZIP Code), telephone number, and medical or disability information.

(14) "Present and future minimum motor vehicle insurance coverage" means minimum coverage as specified in Chapter 34 of Title 33, which coverage cannot be canceled except for a subsequent conviction of an offense enumerated in Code Section 40-5-54 and after giving the commissioner 20 days' written notice prior to the effective date of the cancellation.

(15) "Resident" means a person who has a permanent home or abode in Georgia to which, whenever such person is absent, he or she

has the intention of returning. For the purposes of this chapter, there is a rebuttable presumption that the following person is a resident:

- (A) Any person who accepts employment or engages in any trade, profession, or occupation in Georgia or enters his or her children to be educated in the private or public schools of Georgia within ten days after the commencement of such employment or education; or
- (B) Any person who, except for infrequent, brief absences, has been present in the state for 30 or more days;

provided, however, that no person shall be considered a resident for purposes of this chapter unless such person is either a United States citizen or an alien with legal authorization from the U.S. Immigration and Naturalization Service.

(16) "Revocation of driver's license" means the termination by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which license shall not be subject to renewal or restoration, except that an application for a new license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in this chapter.

(16.01) "Ride share driver" means an individual who uses his or her personal passenger car, as defined in paragraph (41) of Code Section 40-1-1, to provide transportation for passengers arranged through a ride share network service.

(16.02) "Ride share network service" means any person or entity that uses a digital network or Internet network to connect passengers to ride share drivers for the purpose of prearranged transportation for hire or for donation. The term "ride share network service" shall not include any corporate sponsored vanpool or exempt rideshare as such terms are defined in Code Section 40-1-100, provided that such corporate sponsored vanpool or exempt rideshare is not operated for the purpose of generating a profit.

(16.1) "Singularly or in combination" means that the department, in determining whether or not a person's license or privilege to operate a motor vehicle on the public highways is to be revoked as a habitual violator, is to treat each charge for which a conviction was obtained as a separate transaction when determining whether or not a person has the requisite convictions which mandate such a revocation.

(16.2) "Substance abuse treatment program" means a program of treatment under Chapter 7 of Title 37 at a facility authorized to provide services designed to meet an individual's substance abuse

treatment needs based upon the results of a clinical evaluation performed by a provider other than the provider of the treatment program for such individual.

(17) "Suspension of driver's license" means the temporary withdrawal by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department.

(18) "Taxi service" means any taxicab company or provider which utilizes a motor vehicle or similar vehicle, device, machine, or conveyance to transport passengers; uses a taximeter; and is registered with the Department of Public Safety and, if applicable, is authorized to provide taxicab services pursuant to an ordinance of a local government in this state. (Code 1933, § 68B-101, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1989, p. 519, § 2; Ga. L. 1990, p. 1154, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 1886, § 1; Ga. L. 1994, p. 97, § 40; Ga. L. 1994, p. 514, § 1; Ga. L. 1995, p. 920, § 1; Ga. L. 1996, p. 1250, § 1; Ga. L. 1997, p. 143, § 40; Ga. L. 1997, p. 760, § 8; Ga. L. 1997, p. 1446, § 1; Ga. L. 1999, p. 731, § 1; Ga. L. 2000, p. 951, § 5-1; Ga. L. 2005, p. 334, § 17-1/HB 501; Ga. L. 2010, p. 9, § 1-78/HB 1055; Ga. L. 2010, p. 932, § 1/HB 396; Ga. L. 2011, p. 355, § 1/HB 269; Ga. L. 2014, p. 710, § 1-6/SB 298; Ga. L. 2015, p. 1262, § 5/HB 225.)

**The 2015 amendment**, effective July 1, 2015, substituted the present provisions of paragraph (9) for the former provisions, which read "Reserved."; added paragraph (9.1); substituted the present

provisions of paragraph (11) for the former provisions, which read "Reserved."; and added paragraphs (16.01), (16.02), and (18).

## 40-5-2. Keeping of records of applications for licenses and information on licensees; furnishing of information.

(a) The department shall maintain records regarding the drivers' licenses and permits issued by the department under this chapter. The drivers' records maintained by the department shall include:

(1) A record of every application for a license received by it and suitable indexes containing:

(A) All applications granted; and

(B) The name of every licensee whose license has been canceled, suspended, or revoked by the department and after each such name shall note the reasons for such action;

(2) Drivers' records received from other jurisdictions. Upon receipt of such driver's record, it shall become a part of such driver's record

in this state and shall have the same force and effect as though entered on the driver's record in this state in the original instance; and

(3) Records of all abstracts of court records of convictions of any offense listed in subsection (a) of Code Section 40-5-20, subsection (a) of Code Section 40-5-54, Code Section 40-6-10, driving on a suspended license in violation of Code Section 40-5-121, administrative license suspension pursuant to Code Sections 40-5-67 through 40-5-67.2, Code Section 40-5-75, Chapter 9 of this title, the "Motor Vehicle Safety Responsibility Act," and Chapter 34 of Title 33, the "Georgia Motor Vehicle Accident Reparations Act," any felony offense under this title, any offense committed while operating a commercial motor vehicle, serious traffic offenses, or other offenses requiring the assessment of points on the driving record that are received by it under the laws of this state and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee or individual showing the convictions of such licensee or individual and the traffic accidents in which such licensee or individual has been involved shall be readily ascertainable and available for the consideration of the department upon any application for, or application for renewal of, license and at other suitable times. For purposes of issuing a driver's operating record to the public as provided in this Code section, the period of calculation for compilation of such report shall be determined by the date of arrest.

(b) The records maintained by the department on individual drivers are exempt from any law of this state requiring that such records be open for public inspection; provided, however, that initial arrest reports, incident reports, and the records pertaining to investigations or prosecutions of criminal or unlawful activity shall be subject to disclosure pursuant to paragraph (4) of subsection (a) of Code Section 50-18-72 and related provisions. Georgia Uniform Motor Vehicle Accident Reports shall be subject to disclosure pursuant to paragraph (5) of subsection (a) of Code Section 50-18-72. The department shall not make records or personal information available on any driver except as otherwise provided in this Code section or as otherwise specifically required by 18 U.S.C. Section 2721.

(c)(1) The driver's record provided by the department shall include an enumeration of any accidents in which the individual was convicted of a moving traffic violation, such moving traffic violation convictions, and information pertaining to financial responsibility. The department shall furnish a driver's operating record or personal information from a driver's record under the following circumstances:

(A) With the written instructions and consent of the driver upon whom the operating record has been made and compiled; such

instructions and consent shall be signed by the driver but shall not be required to be notarized;

(B)(i) Pursuant to a written request or a request made in accordance with a contract with the Georgia Technology Authority for immediate on-line electronic furnishing of information, for use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting involving the driver; provided, however, that notwithstanding the definition of personal information under Code Section 40-5-1, personal information furnished under this division shall be limited to name, address, driver identification number, and medical or disability information. The person who makes a request for a driver's operating record shall identify himself or herself and shall have certified or affirmed that the information contained in the record will be used only for the purpose specified in the request. Further, the person making the request shall certify or affirm that he or she has on file an application for insurance or for the renewal or amendment thereof involving the driver or drivers; or

(ii) For the purpose of ascertaining necessary rating information by an insurance agent pursuant to an insurer's contract with the Georgia Technology Authority for the immediate on-line electronic furnishing of limited rating information to such insurer's agents. Limited rating information furnished under this division shall include only the number of violations of Code Section 40-6-391, relating to driving under the influence of alcohol, drugs, or other intoxicating substances, and the number and type of other moving traffic violations which were committed by the proposed insured driver or drivers within the immediately preceding three or five years, which period shall be specified by the person making the request. The provisions of division (i) of this subparagraph notwithstanding, no other information concerning a driver's operating record shall be released to such agents for purposes of rating;

(B.1) The department shall implement a pilot program for 12 months to determine the revenue feasibility of supplying limited rating information to agents, insurers, and insurance support organizations. The department shall report the results of such pilot program to the Office of Planning and Budget. Unless the Office of Planning and Budget determines that the pilot program is not successful, the department shall continue the program on a year-to-year basis and furnish limited rating information to insurance support organizations for the same purposes as provided in

division (ii) of subparagraph (B) of this paragraph, pursuant to a contract with the Georgia Technology Authority, provided that all other necessary requirements of this subsection have been met;

(C) In accordance with Article 7 of this chapter, the "Georgia Uniform Commercial Driver's License Act";

(D) To a judge, prosecuting official, or law enforcement agency for use in investigations or prosecutions of alleged criminal or unlawful activity, or to the driver's licensing agency of another state;

(E) Pursuant to a request from a public or private school system concerning any person currently employed or an applicant for employment as a school bus driver who agrees in writing to allow the department to release the information;

(F) With the written release of the driver, to a rental car company for use in the normal course of its business; provided, however, that notwithstanding the definition of personal information under Code Section 40-5-1, personal information furnished under this subparagraph shall be limited to name, address, driver identification number, and medical or disability information. Such access shall be provided and funded through the GeorgiaNet Division of the Georgia Technology Authority, and the department shall bear no costs associated with such access; and

(G) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(i) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(ii) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

provided, however, that notwithstanding the definition of personal information under Code Section 40-5-1, personal information furnished under this subparagraph shall be limited to name, address, and driver identification number and shall not include photographs, fingerprints, computer images, or medical or disability information. The personal information obtained by a business under this subparagraph shall not be resold or redislosed for any other purpose without the written consent of the individual. Furnishing of information to a business under this subparagraph shall be pursuant to a contract entered into by such business and

the state which specifies, without limitation, the consideration to be paid by such business to the state for such information and the frequency of updates.

(2) Nothing in this Code section shall preclude the department from confirming or verifying the status of a driver's license or permit.

(d)(1) The commissioner shall designate members of the department to be the official custodians of the records of the department. No disclosure or release of operating records or personal information shall be made without the signed written approval of a designated custodian; except that such approval shall not be required for any release or disclosure through the GeorgiaNet Division of the Georgia Technology Authority pursuant to the signed written consent of the driver, provided that any such signed written consent shall be retained for a period of not less than four years by the party requesting the information; and except that such approval shall not be required for any release or disclosure of information made electronically through the GeorgiaNet Division of the Georgia Technology Authority in accordance with a contract authorized by subparagraph (c)(1)(B) of this Code section. The custodians may certify copies or compilations, including extracts thereof, of the records of the department.

(2) In response to a subpoena or upon the request of any judicial official, the department shall provide a duly authenticated copy of any record or other document. This authenticated copy may consist of a photocopy or computer printout of the requested document certified by the commissioner or the commissioner's duly authorized representative.

(e) Upon written request, the department may provide copies of any record or personal information from any driver's record for use by any appropriate governmental official, entity, or agency for the purposes of carrying out official governmental functions or legitimate governmental duties; provided, however, that notwithstanding the definition of personal information under Code Section 40-5-1, personal information furnished under this subsection shall be limited to name, address, driver identification number, and medical or disability information.

(f) The department is specifically authorized to disseminate the following records and information:

(1) To the United States Selective Service System and the Georgia Crime Information Center, compilations of the names, most current addresses, license or identification card numbers, and dates of birth of licensees or applicants for licenses or applicants for or holders of identification cards issued under this chapter, or, in the case of the United States Selective Service System, any other information from

the license or identification card application as necessary for purposes of registration of persons therewith. Such information shall only be used in the fulfillment of the legitimate governmental duties of the United States Selective Service System and the Georgia Crime Information Center and shall not be further disseminated to any person. Information transmitted to the United States Selective Service System pursuant to this paragraph shall be provided in an electronic format;

(2) To the military branches of the United States Department of Defense, compilations of the names, dates of birth, sex, and most current addresses of licensees between the ages of 16 and 24 for the sole purpose of mailing recruiting and job opportunity information, provided that the department shall not be required to provide such a compilation more than once every two months;

(3) To the Department of Human Services, compilations of the names, dates of birth, and most current addresses of licensees or applicants for licenses. Any information provided pursuant to this subsection shall only be used by the Department of Human Services in connection with the recovery of delinquent child support payments under Article 1 of Chapter 11 of Title 19, known as the "Child Support Recovery Act";

(4) To a local fire or law enforcement department, a copy of the abstract of the driving record of any applicant for employment or any current employee and to the Georgia Bureau of Investigation for the purpose of providing a local fire or law enforcement department with the abstract through the Criminal Justice Information System. It shall be unlawful for any person who receives an abstract of the driving record of an individual under this subsection to disclose any information pertaining to such abstract or to make any use thereof except in the performance of official duties with the local fire or law enforcement department;

(5) The information required to be made available to organ procurement organizations pursuant to subsection (d) of Code Section 40-5-25 and subsection (e) of Code Section 40-5-100 and for the purposes set forth in such Code sections;

(6)(A) The information required to be made available regarding voter registration pursuant to Code Sections 21-2-221 and 21-2-221.2 and for the purposes set forth in such Code sections; and

(B) Information sufficient for use in verifying a registered voter's identity or the identity of an applicant for voter registration by the Secretary of State, the county election superintendent, or the county registrar, including name, address, date of birth, gender, driver identification number, photograph, and signature;

(7) The data required to be made available to The Council of Superior Court Clerks of Georgia and the Administrative Office of the Courts pursuant to Code Section 15-12-40.1. Such data shall be provided to The Council of Superior Court Clerks of Georgia and the Administrative Office of the Courts upon request in the electronic format required by the council for such purposes and without any charge for such data; and

(8) To the Department of Revenue, information sufficient for use in the detection and prevention of fraudulent tax returns, including name, address, date of birth, gender, driver identification number, photograph, and signature. Such information may be provided in electronic format by means of bulk transfer. Any information provided pursuant to this paragraph shall only be used by the Department of Revenue in connection with the detection and prevention of fraudulent tax returns.

(g) The drivers' records and personal information disseminated by the department pursuant to this Code section may be used only by the authorized recipient and only for the authorized purpose. It shall be unlawful to disclose, distribute, or sell such records or information to an unauthorized recipient or for an unauthorized purpose. It shall be a violation of this Code section to make a misrepresentation or false statement in order to obtain access to or information from the department's records. Any person who knowingly and willfully violates the provisions of this Code section shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished as provided in Code Section 17-10-4.

(h) The department shall maintain for four years a record of each release of a driver's operating record or personal information, including the name and address of the requesting party, the date of the release, and the provision of law authorizing the release. Such record of releases shall be reported to the affected driver upon written application by the driver, except that the department shall not report any information about the existence of a release made in connection with a criminal investigation which is ongoing and which involves, though not necessarily focuses upon, such driver. Upon receipt of an application from a driver for such record of releases, the department shall have three business days to determine whether an ongoing criminal investigation is involved, and such determination shall be in the discretion of the commissioner. Where a release is not reported to a driver because the underlying release involved an ongoing criminal investigation, the records concerning the underlying release shall be maintained for four years after the criminal investigation is closed and such records shall during such period after closure of the investigation be subject to disclosure upon application by the driver.

(i) The provisions of this Code section shall apply, where relevant, to the maintenance and disclosure of the department's records regarding state identification cards issued under Article 5 of this chapter.

(j) The commissioner is authorized to promulgate any rules, regulations, or policies as are necessary to carry out the provisions of this Code section, including the promulgation of regulations limiting the retention of conviction and withdrawal information on a driving record. Notwithstanding the foregoing, any regulation relating to the retention of conviction and withdrawal information on a driving record shall apply the same retention schedule to both commercial and noncommercial drivers. In accordance with paragraph (6) of subsection (a) of Code Section 50-25-4, reasonable fees shall be assessed for furnishing information from records or data bases pursuant to provisions of this Code section; provided, however, that the fee for furnishing an abstract of a driver's record shall not exceed \$10.00.

(k)(1) The department, pursuant to rules and regulations promulgated by the commissioner, may periodically review all records maintained pursuant to this Code section and shall correct those records which contain known improper, false, fraudulent, or invalid information.

(2) Not later than July 31, 2006, the department shall destroy all records of fingerprints obtained on and after April 15, 1996, and prior to July 1, 2006, from applicants for drivers' licenses, identification cards, and identification cards for persons with disabilities issued by the department and shall compile and make available for public inspection a list of all persons or entities to whom the department provided such fingerprint records. Notwithstanding the provisions of this paragraph, fingerprint images electronically stored on existing drivers' licenses will be destroyed upon application for a renewal of the driver's license.

(l) In any case in which the release or transmittal of one or more driver's records is authorized under this Code section or any other provision of law, the commissioner may determine the method of release or transmittal of the record or records, including without limitation release or transmittal by mail or by means of the Internet or other electronic means. (Ga. L. 1937, p. 322, art. 4, § 13; Ga. L. 1939, p. 135, § 12; Code 1933, § 68B-215, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1978, p. 920, § 1; Ga. L. 1979, p. 142, § 1; Ga. L. 1980, p. 917, §§ 1, 2; Ga. L. 1985, p. 149, § 40; Ga. L. 1985, p. 1182, § 1; Ga. L. 1985, p. 1339, § 1; Ga. L. 1986, p. 156, § 1; Ga. L. 1986, p. 514, § 1; Ga. L. 1988, p. 470, § 1; Ga. L. 1988, p. 687, § 1; Ga. L. 1989, p. 519, § 3; Ga. L. 1990, p. 8, § 40; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 1870, § 1; Ga. L. 1992, p. 6, § 40; Ga. L. 1995, p. 917, § 1; Ga. L. 1996, p. 6, § 40; Ga. L. 1996, p. 1061, § 1; Ga. L. 1996, p. 1624, § 5; Ga. L. 1997, p. 1446,

§ 2; Ga. L. 1999, p. 809, § 3; Ga. L. 2000, p. 249, § 2; Ga. L. 2000, p. 429, § 3; Ga. L. 2000, p. 951, § 5-2; Ga. L. 2001, p. 294, § 2; Ga. L. 2001, Ex. Sess., p. 318, § 1-2; Ga. L. 2002, p. 415, § 40; Ga. L. 2004, p. 749, § 2; Ga. L. 2005, p. 60, § 40/HB 95; Ga. L. 2005, p. 334, § 17-2/HB 501; Ga. L. 2005, p. 465, § 1/HB 151; Ga. L. 2005, p. 1122, § 1/HB 577; Ga. L. 2006, p. 432, §§ 1, 2/HB 513; Ga. L. 2006, p. 449, § 1/HB 1253; Ga. L. 2006, p. 897, § 2/HB 1417; Ga. L. 2008, p. 171, § 1/HB 1111; Ga. L. 2008, p. 1137, § 1/SB 350; Ga. L. 2009, p. 327, § 2/HB 549; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2010, p. 932, § 1.1/HB 396; Ga. L. 2011, p. 59, § 1-66/HB 415; Ga. L. 2011, p. 99, § 57/HB 24; Ga. L. 2012, p. 218, § 11/HB 397; Ga. L. 2012, p. 804, § 4/HB 985; Ga. L. 2012, p. 995, § 44/SB 92; Ga. L. 2014, p. 451, § 12/HB 776; Ga. L. 2014, p. 851, § 5/HB 774; Ga. L. 2015, p. 60, § 4-6/SB 100.)

**The 2015 amendment**, effective July 1, 2015, substituted “and subsection (e) of Code Section 40-5-100 and for the purposes set for in such Code sections” for “and for the purposes set for in such Code section” at the end of paragraph (f)(5). See editor’s note for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 60,

§ 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

#### **40-5-6. Forms for making of anatomical gifts upon issuance or renewal of driver’s license or personal identification card.**

(a) Whenever any person applies for or requests the issuance, reissuance, or renewal of any class of driver’s license or personal identification card, the department shall furnish such person with a form, sufficient under Article 6 of Chapter 5 of Title 44, the “Georgia Revised Uniform Anatomical Gift Act,” for the gift of all or part of the donor’s body conditioned upon the donor’s death. If any such person, legally authorized to execute such a gift as provided for pursuant to Code Section 44-5-142, desires to execute a gift, the department shall provide such person with appropriate assistance and the presence of the legally required number of witnesses.

(b) A notation shall be affixed to or made a part of every driver’s license and personal identification card issued in this state indicating whether or not the licensee or cardholder has executed, under Article 6 of Chapter 5 of Title 44, the “Georgia Revised Uniform Anatomical Gift Act,” a gift, by will or otherwise, of all or part of his or her body conditioned upon the donor’s death. (Ga. L. 1974, p. 1117, §§ 1, 2; Code 1981, § 40-5-7; Code 1981, § 40-5-6, as redesignated by Ga. L. 1990, p. 2048, § 4; Ga. L. 2008, p. 503, § 4/SB 405; Ga. L. 2015, p. 60, § 4-7/SB 100.)

**The 2015 amendment**, effective July 1, 2015, in subsection (a), inserted “or personal identification card” and substituted “such person” for “that person” near the beginning of the first sentence, and inserted “as provided for pursuant to Code Section 44-5-142” and substituted “such person” for “that person” near the middle of the second sentence; and, in subsection (b), inserted “and personal identification card” near the beginning, inserted “or

cardholder” near the middle, and substituted “his or her body” for “his body” near the end. See editor’s note for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

## ARTICLE 2

### ISSUANCE, EXPIRATION, AND RENEWAL OF LICENSES

#### 40-5-21.1. **Temporary licenses, permits, or special identification cards; foreign licenses or identification cards as evidence of legal presence in the United States; extensions.**

### JUDICIAL DECISIONS

Cited in Barrow v. Mikell, 331 Ga. App. 547, 771 S.E.2d 211 (2015).

#### 40-5-22. **Persons not to be licensed; minimum ages for licensees; school enrollment requirements; driving training requirements; limited driving permit.**

(a) Except as otherwise provided in this Code section, the department shall not issue any Class C driver’s license to any person who is under 18 years of age or Class M driver’s license to any person who is under the age of 17 years, except that the department may, under subsection (a) of Code Section 40-5-24, issue a Class P instruction permit permitting the operation of a noncommercial Class C vehicle to any person who is at least 15 years of age, and may, under subsection (b) of Code Section 40-5-24, issue a Class D driver’s license permitting the operation of a noncommercial Class C vehicle to any person who is at least 17 years of age. On and after January 1, 1985, the department shall not issue any driver’s license to any person under 18 years of age unless such person presents a certificate or other evidence acceptable to the department which indicates satisfactory completion of an alcohol and drug course as prescribed in subsection (b) of Code Section 20-2-142; provided, however, that a person under 18 years of age who becomes a resident of this state and who has in his or her immediate possession a valid license issued to him or her in another state or country shall not be required to take or complete the alcohol and drug course. The department shall not issue a driver’s license or a Class P

instruction permit for the operation of a Class A or B vehicle or any commercial driver's license to any person who is under the age of 18 years.

(a.1)(1) The department shall not issue an instruction permit or driver's license to a person who is younger than 18 years of age unless at the time such minor submits an application for an instruction permit or driver's license the applicant presents acceptable proof that he or she has received a high school diploma, a general educational development (GED) diploma, a special diploma, or a certificate of high school completion or has terminated his or her secondary education and is enrolled in a postsecondary school, is pursuing a general educational development (GED) diploma, or the records of the department indicate that said applicant:

- (A) Is enrolled in and not under expulsion from a public or private school; or
- (B) Is enrolled in a home education program that satisfies the reporting requirements of all state laws governing such program.

The department shall notify such minor of his or her ineligibility for an instruction permit or driver's license at the time of such application.

(2) The State Board of Education and the commissioner of driver services are authorized to promulgate rules and regulations to implement the provisions of this subsection.

(3) The Technical College System of Georgia shall be responsible for compliance and noncompliance data for students pursuing a general educational development (GED) diploma.

(a.2)(1) On and after January 1, 2002, the department shall not issue any initial Class D driver's license or, in the case of a person who has never been issued a Class D driver's license by the department or the equivalent thereof by any other jurisdiction, any initial Class C driver's license unless such person:

- (A) Is at least 16 years of age and has completed an approved driver education course in a licensed private or public driver training school and in addition has a cumulative total of at least 40 hours of other supervised driving experience including at least six hours at night, all of which is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; or

- (B) Is at least 17 years of age and has completed a cumulative total of at least 40 hours of supervised driving experience including

at least six hours at night, and the same is verified in writing signed before a person authorized to administer oaths by a parent or guardian of the applicant or by the applicant if such person is at least 18 years of age; provided, however, that a person 17 years of age or older who becomes a resident of this state, who meets all of the qualifications for issuance of a Class C license with the exception of the completion of an approved driver education training course and at least 40 hours of supervised driving experience as required by this subsection, and who has in his or her immediate possession a valid license equivalent to a Class C license issued to him or her in another state or country shall be entitled to receive a Class C license.

(2) The commissioner shall by rule or regulation establish standards for approval of any driver education course for purposes of subparagraph (A) of paragraph (1) of this subsection, provided that such course shall be designed to educate young drivers about safe driving practices and the traffic laws of this state and to train young drivers in the safe operation of motor vehicles, and provided, further, that the commissioner shall provide for the approval of courses from other states to satisfy the requirements of this paragraph for any child moving into this state within nine months of his or her sixteenth birthday when the child's parent is in the active military service of the United States.

(3) For purposes of supervised driving experience under paragraph (1) of this subsection, supervision shall be provided by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver.

(4) For the purposes of this Code section, the term "approved driver education training course" shall include those driver education training courses approved by the Department of Driver Services.

(5) For purposes of this Code section, the term "approved driver education training course" shall include instruction given in the course of a home education program that satisfies the reporting requirements of all state laws governing such programs, provided that such instruction utilizes a curriculum approved by the department.

(b)(1) Notwithstanding the provisions of subsection (a) of this Code section, any person 14 years of age or older who has a parent or guardian who is medically incapable of being licensed to operate a motor vehicle due to visual impairment may apply for and, subject to the approval of the commissioner, may be issued a restricted noncommercial Class P instruction permit for the operation of a noncommer-

cial Class C vehicle. Any person permitted pursuant to this subsection shall be accompanied whenever operating a motor vehicle by such physically impaired parent or guardian or by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver. The department shall require satisfactory proof that the physically impaired parent or guardian previously held a valid driver's license in the State of Georgia, another state, or the District of Columbia before issuing an instructional permit pursuant to this paragraph.

(2) Notwithstanding the provisions of subsection (a) of this Code section, any person 15 years of age or older who has a parent or guardian who is medically incapable of being licensed to operate a motor vehicle due to physical impairment and has been issued an identification card containing the international handicapped symbol pursuant to Article 8 of this chapter may apply for and, subject to the approval of the commissioner, may be issued a restricted noncommercial Class P instruction permit for the operation of a noncommercial Class C vehicle. Any person permitted pursuant to this paragraph shall be accompanied whenever operating a motor vehicle by such physically impaired parent or guardian or by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle, who is fit and capable of exercising control over the vehicle, and who is occupying a seat beside the driver. The department shall require satisfactory proof that the physically impaired parent or guardian previously held a valid driver's license in the State of Georgia, another state, or the District of Columbia before issuing an instructional permit pursuant to this paragraph.

(c) Except as provided in subsection (d) of this Code section, the department shall not issue any driver's license to nor renew the driver's license of any person:

(1) Whose license has been suspended during such suspension, or whose license has been revoked, except as otherwise provided in this chapter;

(2) Whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter;

(3) Who is a habitual user of alcohol or any drug to a degree rendering him or her incapable of safely driving a motor vehicle;

(4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

(5) Who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(6) Who the commissioner has good cause to believe would not, by reason of physical or mental disability, be able to operate a motor vehicle with safety upon the highway; or

(7) Whose license issued by any other jurisdiction is suspended or revoked by such other jurisdiction during the period such license is suspended or revoked by such other jurisdiction.

(d) The department is authorized to issue a limited driving permit to an applicant whose license is currently under suspension or revocation in any other jurisdiction upon grounds which would authorize the suspension or revocation of a license under this chapter, provided that the applicant is otherwise eligible for such limited driving permit in accordance with paragraph (1) of subsection (a) of Code Section 40-5-64. (Ga. L. 1937, p. 322, art. 4, § 2; Ga. L. 1966, p. 12, § 1; Code 1933, § 68B-203, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1983, p. 745, § 2; Ga. L. 1984, p. 22, § 40; Ga. L. 1986, p. 839, § 1; Ga. L. 1989, p. 519, § 6; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 321, § 1; Ga. L. 1994, p. 97, § 40; Ga. L. 1997, p. 760, § 10; Ga. L. 2000, p. 951, § 5-5; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 184, § 1-1; Ga. L. 2004, p. 107, § 21B; Ga. L. 2005, p. 60, § 40/HB 95; Ga. L. 2005, p. 334, § 17-4/HB 501; Ga. L. 2005, p. 798, § 22/SB 35; Ga. L. 2005, p. 1461, § 3/SB 226; Ga. L. 2006, p. 72, § 40/SB 465; Ga. L. 2006, p. 343, § 3/SB 637; Ga. L. 2006, p. 449, § 2/HB 1253; Ga. L. 2008, p. 171, § 2/HB 1111; Ga. L. 2008, p. 335, § 6/SB 435; Ga. L. 2008, p. 589, § 1/HB 969; Ga. L. 2010, p. 199, § 1/HB 258; Ga. L. 2011, p. 355, § 2/HB 269; Ga. L. 2011, p. 752, § 40/HB 142; Ga. L. 2012, p. 72, § 2/SB 236; Ga. L. 2014, p. 432, § 2-13/HB 826; Ga. L. 2015, p. 60, § 4-8/SB 100.)

**The 2015 amendment**, effective July 1, 2015, rewrote subsection (a.1); substituted “Except as provided in subsection (d) of this Code section, the department” for “The department” at the beginning of subsection (c); and added subsection (d). See editor’s note for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 60,

§ 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

## JUDICIAL DECISIONS

**Revocation proper given revocation in foreign jurisdiction.** — Driver’s Georgia driver’s license was properly revoked under O.C.G.A. § 40-5-22(c)(7) as that section applied not only to the revocation of a physical driver’s license issued

by another state, but also to any privilege to drive in that state, and Illinois had revoked the driver’s privilege to drive in that state. Wolfe v. Ga. Dep’t of Driver Servs., 330 Ga. App. 552, 768 S.E.2d 528 (2015).

**40-5-25. (For effective date, see note.) Applications; fees; waiver of fees; provisions for voluntary participation in various programs.**

(a) Every application for an instruction permit or for a driver's license shall be made upon a form furnished by the department. Every application shall be accompanied by the proper license fee. The fees shall be as established by the Board of Driver Services, not to exceed:

(1) For instruction permits for Classes C, E, F, and M drivers' licenses and for Class D drivers' licenses	\$ 10.00
(2) For five-year Classes C, E, F, and M noncommercial drivers' licenses .....	20.00
(2.1) For eight-year Classes C, E, F, and M noncommercial drivers' licenses .....	32.00
(3) For Classes A, B, C, and M commercial drivers' licenses .....	20.00
(4) For application for Classes A, B, C, and M commercial drivers' licenses or a Class P commercial driver's instruction permit .....	35.00
(5) For Class P commercial drivers' instruction permits for Classes A, B, C, and M commercial drivers' licenses .....	10.00
(6) For Classes A, B, C, and M commercial drivers' licenses, initial issuance requiring a road test ...	70.00
(7) For Classes A, B, C, and M commercial drivers' licenses, initial issuance not requiring a road test	20.00
(8) For renewal of Classes A, B, C, and M commercial drivers' licenses .....	20.00
(8.1) For renewal of five-year Classes C, E, F, and M noncommercial drivers' licenses .....	20.00
(8.2) For renewal of eight-year Classes C, E, F, and M noncommercial drivers' licenses .....	32.00
(9) Initial issuance of Classes A, B, C, and M commercial drivers' licenses and Class P commercial drivers' instruction permits shall include all endorsement fees within the license fee. Each endorsement added after initial licensing .....	5.00

The commissioner may by rule provide incentive discounts in otherwise applicable fees reflecting cost savings to the department where a license is renewed by means other than personal appearance. The discount for

renewal of a Class C or Class M license and any other discounts shall be as determined by the commissioner. Except as provided in Code Section 40-5-36, relating to veterans' licenses, and Code Section 40-5-149, relating to application fees for public school bus drivers, there shall be no exceptions to the fee requirements for a commercial driver's license or a commercial driver's license permit. Notwithstanding any other provision of this Code section, there shall be no fee whatsoever for replacement of any driver's license solely due to a change of the licensee's name or address, provided that such replacement license shall be valid only for the remaining period of such original license; and provided, further, that only one such free replacement license may be obtained within the period for which the license was originally issued. Any application for the replacement of a lost license pursuant to Code Section 40-5-31 or due to a change in the licensee's name or address submitted within 150 days of the expiration of said license shall be treated as an application for renewal subject to the applicable license fees as set forth in this subsection. The maximum period for which any driver's license shall be issued is eight years.

(b)(1) (For effective date, see note.) Each person applying for a Class P commercial or noncommercial instruction permit for a Class A, B, C, E, F, or M driver's license shall pay the applicable license fee prior to attempting the knowledge test for the instruction permit sought when the knowledge test is to be administered by the department. If said person fails to achieve a passing score on the knowledge test, the license fee paid shall be considered a testing fee and retained by the department. Any person failing to achieve a passing score on the knowledge test for an instructional permit shall pay the applicable license fee on each subsequent attempt until successful, at which time said fee shall be his or her license fee.

(2) The department shall waive the license fee for each person applying for a Class P noncommercial instruction permit for a Class C driver's license when the noncommercial knowledge test is to be administered by a licensed driver training school or public or private high school authorized to administer such tests as provided for in subsection (d) of Code Section 40-5-27.

(3) Each person applying for a Class A, B, or C commercial driver's license shall pay the applicable license fee at the time that he or she schedules his or her appointment for said skills test. If said person fails to appear for his or her scheduled skills test appointment or fails to achieve a passing score on the skills test, the license fee paid shall be considered a testing fee and retained by the department. The person shall pay the applicable license fee on each subsequent attempt until successful, at which time said fee shall be his or her

license fee. All fees retained by the department pursuant to this Code section shall be remitted to the general fund.

(c) Every such application shall state the full legal name, date of birth, sex, and residence address of the applicant; shall briefly describe the applicant; shall state whether the applicant has theretofore been licensed as a driver and, if so, when and by what state or country, and whether any such license has ever been suspended, revoked, or refused, and, if so, the date of and reason for such suspension, revocation, or refusal; and shall state such other information as the commissioner may require to determine the applicant's identity, competence, and eligibility. The application shall include any other information as required by paragraph (1) of subsection (a.1) of Code Section 19-11-9.1. The department shall not issue a license until a complete examination of the applicant's record has been completed. The commissioner may issue such rules and regulations as shall be necessary for the orderly processing of license applications.

(d)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to procurement organizations or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the "Georgia Revised Uniform Anatomical Gift Act," including the name, license number, date of birth, gender, and most recent address of any person eligible pursuant to Code Section 44-5-142 who obtains an organ donor driver's license; provided, however, that the gender information shall be made available only to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations and centers shall be used for a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(e)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, treatments, and rehabilitation for the benefit of the citizens of Georgia.

(2) Each application form for issuance, reissuance, or renewal of a driver's license under subsection (a) of this Code section shall include language permitting the applicant to make a voluntary contribution

of \$1.00 to be used for purposes of preventing blindness and preserving the sight of residents of this state. Any such voluntary contribution shall be made at the discretion of the applicant at the time of application in addition to payment of the license fee required under this Code section.

(3) Voluntary contributions made pursuant to this subsection shall be transmitted to the Department of Public Health for use thereby in providing the blindness education, screening, and treatment program provided by Code Section 31-1-23.

(4) This subsection shall become effective on January 1, 2000.

(f) The General Assembly finds that it is in the best interests of this state to encourage alcohol and drug education to inform young people of the dangers involved in consuming alcohol or certain drugs while operating a motor vehicle. The General Assembly further finds that parental or guardian involvement in an alcohol and drug awareness program will assist in reducing the number of young persons involved in driving under the influence of drugs or alcohol. To promote these purposes, where a parent or guardian successfully participates in the parent-guardian component of the alcohol and drug course required by subsection (a) of Code Section 40-5-22 as prescribed in subsection (b) of Code Section 20-2-142, each parent or guardian shall be entitled to a one-time three-year online motor vehicle report. (Ga. L. 1937, p. 322, art. 4, § 5; Ga. L. 1943, p. 196, § 5; Ga. L. 1947, p. 294, § 1; Ga. L. 1951, p. 157, § 7; Ga. L. 1955, p. 662, § 1; Ga. L. 1955, Ex. Sess., p. 35, § 1; Ga. L. 1961, p. 136, § 2; Ga. L. 1961, p. 433, § 1; Ga. L. 1964, p. 171, § 1; Code 1933, § 68B-206, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1983, p. 819, § 1; Ga. L. 1989, p. 519, § 9; Ga. L. 1990, p. 8, § 40; Ga. L. 1990, p. 2048, § 4; Ga. L. 1992, p. 6, § 40; Ga. L. 1992, p. 779, § 18; Ga. L. 1993, p. 615, § 1; Ga. L. 1994, p. 1390, § 1; Ga. L. 1994, p. 1876, § 1; Ga. L. 1996, p. 228, § 1; Ga. L. 1997, p. 760, § 13; Ga. L. 1999, p. 537, § 2; Ga. L. 2000, p. 951, §§ 5-8, 5-9; Ga. L. 2002, p. 1045, § 3; Ga. L. 2003, p. 415, § 9; Ga. L. 2005, p. 334, § 17-6/HB 501; Ga. L. 2006, p. 72, § 40/SB 465; Ga. L. 2008, p. 171, § 3/HB 1111; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2010, p. 9, § 1-79/HB 1055; Ga. L. 2010, p. 932, § 7/HB 396; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2012, p. 72, § 2A/SB 236; Ga. L. 2015, p. 60, §§ 4-9, 4-10/SB 100.)

**Delayed effective date.** — Subsection (b), as set out above, becomes effective January 1, 2016. For version of subsection (b) in effect until January 1, 2016, see the 2015 amendment note.

**The 2015 amendments.** — The first 2015 amendment, effective July 1, 2015, substituted “this state” for “the state” in paragraph (d)(1); and substituted the

present provisions of paragraph (d)(2) for the former provisions, which read “The department shall make available to those federally designated organ procurement organizations the name, license number, date of birth, and most recent address of any person who obtains an organ donor driver’s license. Information so obtained by such organizations shall be used for the

purpose of establishing a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.”; and, in paragraph (e)(1), substituted “best interest of this state” for “best interests of the state” near the beginning, and substituted “screenings, treatments, and rehabilitation” for “screenings and treatments” near the end. See editor’s note for applicability. The second 2015 amendment, effective January 1, 2016, in subsection (b), inserted “when the knowledge test is to be admin-

istered by the department” at the end of the first sentence in paragraph (b)(1), added paragraph (b)(2), and redesignated former paragraph (b)(2) as present paragraph (b)(3).

**Editor’s notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

#### 40-5-27. Examination of applicants.

(a)(1) The department shall examine every applicant for a driver’s license, except as otherwise provided in this Code section. Such examination shall include a test of the applicant’s eyesight, his or her ability to understand official traffic-control devices, and his or her knowledge of safe driving practices and the traffic laws of this state and shall also include a comprehensive on-the-road driving test during which the applicant shall be required to fully demonstrate his or her ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type or general class of vehicles he or she desires a license to drive.

(2) The on-the-road driving test requirement shall not apply to any applicant for a Class C driver’s license who holds a Class D driver’s license issued on or after January 1, 2002.

(3) Neither the on-the-road driving test nor the knowledge test shall apply to:

(A) An applicant 18 years of age and older with a valid and current license, or a license that has been expired for less than two years, issued by another state of the United States or the District of Columbia; or

(B) An applicant who is a citizen of a foreign country with which the commissioner has entered into a reciprocal agreement pursuant to subsection (c) of Code Section 40-5-5.

(4) The examination may also include such further physical and mental examination as the department finds necessary to determine the applicant’s fitness to operate a motor vehicle safely upon the highways. The commissioner may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any class of license.

(b) The department shall make provision for giving an examination either in the county where the applicant resides or at another place reasonably convenient to the applicant. The examination, with the exception of those required for a commercial driver's license, commercial driver's license permit, or noncommercial Class A, B, or M license, shall be given at least once each month in each county of the state.

(c)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, no noncommercial driver's license shall be issued to any person who does not have a visual acuity of 20/60, corrected or uncorrected, in at least one eye or better and a horizontal field of vision with both eyes open of at least 140 degrees or, in the event that one eye only has usable vision, horizontal field of vision must be at least 70 degrees temporally and 50 degrees nasally.

(2) A person whose visual acuity is less than 20/60 but better than 20/200 using spectacles, contact lenses, or the carrier portion of bioptic spectacles shall be considered eligible for a driver's license if the person is not otherwise disqualified from having a driver's license under the provisions of this article and if:

(A) The person can attain a visual acuity of at least 20/60 through utilizing bioptic telescopes;

(B) The telescopes are prescribed by a licensed optometrist or ophthalmologist;

(C) The person presents documentation of having satisfactorily completed training in the use of the bioptic telescope as certified by the prescribing doctor;

(D) The person presents documentation of an on-the-road evaluation and having satisfactorily completed any recommended training in driving while using bioptic telescopes from a certified driver's license examiner;

(E) The person completes a standard driver's education course while using the bioptic telescopes subsequent to completing evaluation or training with a driver's license examiner; and

(F) The person presents said documentation to a department operated test site and passes a driver's test examination administered by the department.

(3) A person who is licensed to drive using bioptic telescopes shall be subject to possible restrictions placed on his or her license as determined and recommended by the prescribing optometrist or ophthalmologist or the driver's license examiner. Any recommended restrictions shall be reported to the department in writing at the time the person presents himself or herself for a driver's test examination.

Restrictions may include daylight driving only, outside rearview mirrors, certain area and time restrictions, no interstate driving, yearly reevaluations by an optometrist or ophthalmologist, and other such restrictions. Any restrictions shall be eligible for review and reconsideration after one year by completing all of the steps described in subparagraphs (A) through (F) of paragraph (2) of this subsection, including completing any additional possible testing under special conditions, as determined by the optometrist or ophthalmologist.

(4) The user of a bioptic telescope shall require renewal of his or her license every four years. However, the person must be reevaluated at least biennially by an optometrist or ophthalmologist. A certification by the optometrist or ophthalmologist that the user's visual acuity, visual field, and eye health remain stable shall be presented to the department at the time of the biennial eye examination. In the event that changes in vision are determined, the person's license shall expire and the person must successfully repeat all of the steps described in subparagraphs (A) through (F) of paragraph (2) of this subsection in order to have his or her license reinstated. If no significant changes occur in the user's vision at the second biennial examination in a license renewal cycle, the user's license shall be renewed without the necessity of a road test examination or any further eyesight examination.

(d)(1) The department shall authorize licensed driver training schools to conduct knowledge tests, on-the-road driving skills tests, and other tests required for issuance of a driver's license as provided in this subsection. The department shall, prior to approving a licensed driver training school to conduct tests as provided in this subsection, make a determination that the school has been licensed for a minimum of two years and has conducted driver education courses on a full-time basis for such two-year period and that such school meets all other standards which the department may establish as a condition for approval to conduct such tests. The department shall authorize a driver training school licensed pursuant to Chapter 13 of Title 43 and approved by the department to administer the on-the-road driving skills testing provided for in this Code section, provided that the applicant has successfully completed a driver training course which includes a minimum of 30 class hours of instruction and six hours of private in-car training. The department may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any Class P instructional permit, Class C driver's license, or Class D driver's license under this Code section.

(2) The department may authorize public and private high schools to conduct knowledge tests required for issuance of a Class P

instructional permit or Class D driver's license or both. (Ga. L. 1937, p. 322, art. 4, § 4; Ga. L. 1951, p. 598, § 3; Code 1933, § 68B-208, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1989, p. 519, § 10; Ga. L. 1990, p. 2048, § 4; Ga. L. 1992, p. 3311, § 2; Ga. L. 1996, p. 1250, § 3; Ga. L. 1997, p. 760, § 14; Ga. L. 2001, p. 184, § 1-3; Ga. L. 2004, p. 749, § 4; Ga. L. 2005, p. 334, § 17-7/HB 501; Ga. L. 2005, p. 525, § 1/HB 613; Ga. L. 2011, p. 752, § 40/HB 142; Ga. L. 2013, p. 281, § 2/HB 475; Ga. L. 2014, p. 710, § 1-7/SB 298; Ga. L. 2015, p. 60, § 4-11/SB 100.)

**The 2015 amendment**, effective July 1, 2015, inserted "noncommercial" near the beginning of paragraph (c)(1). See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General

Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

#### **40-5-28. Issuance of licenses; contents; signature required; biological identifiers prohibited; county tag agents; Class E and Class F licenses for volunteer firefighters.**

(a) Except as provided in subsection (c) of this Code section, the department shall, upon payment of the required fee, issue to every applicant qualifying therefor a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall be upon a form prescribed by the department and which shall bear thereon a distinguishing number assigned to the licensee, a photograph of the licensee, the licensee's full legal name, either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with a pen and ink immediately upon receipt of the license, and such other information or identification as is required by the department. No license shall be valid until it has been so signed by the licensee. The department shall not require applicants to submit or otherwise obtain from applicants any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application.

(b) The commissioner may determine the location and manner of issuance of drivers' licenses. Without limiting the generality of the foregoing, it is specifically provided that the commissioner may designate county tag agents, if they so agree, as agents of the department for this purpose and may authorize the issuance of drivers' licenses by county tag agents. No county tag agent shall be required to issue or renew drivers' licenses unless such county tag agent agrees in writing to perform such functions. No county tag agent shall be required to issue or renew drivers' licenses for residents of any county other than

the residents of the county for which he or she serves as tax commissioner.

(c) The department shall make available to qualified applicants who are also volunteer firefighters Class E and Class F drivers' licenses without charge. In order to receive the Class E or Class F endorsement without payment of a fee, the applicant shall provide:

(1) A copy of his or her firefighter certification indicating that he or she is currently a certified firefighter in good standing; and

(2) A letter signed by the chief executive officer of the public entity he or she serves which letter appears on such political entity's official agency letterhead and provides that he or she is a volunteer firefighter for such public entity.

The provisions of this subsection shall apply to both original and renewal applicants for Class E and Class F licenses, as these classes are identified in Code Section 40-5-23. (Code 1933, § 68B-209, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 1996, p. 1250, § 4; Ga. L. 2005, p. 334, § 17-8/HB 501; Ga. L. 2005, p. 1122, § 3/HB 577; Ga. L. 2010, p. 932, § 8/HB 396; Ga. L. 2014, p. 710, § 6-1/SB 298; Ga. L. 2015, p. 60, § 4-12/SB 100.)

**The 2015 amendment**, effective July 1, 2015, deleted "color" preceding "photograph of the licensee" in the first sentence of subsection (a). See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General

Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

#### **40-5-39. Requirements for operation of a motor vehicle for hire; for-hire license endorsements and eligibility; term; background checks.**

(a) No person shall operate a motor vehicle for hire in this state unless such person:

(1) Has a for-hire license endorsement pursuant to this Code section and has liability insurance coverage in the amounts required by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable; or

(2) Has a private background check certification pursuant to this Code section and has liability insurance coverage in the amounts required by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable.

This shall include, but not be limited to, ride share drivers and persons operating motor vehicles for limousine carriers and taxicabs for taxi services.

(b) The department shall provide a for-hire license endorsement for any qualified person under this Code section. In order to be eligible for such endorsement, an applicant shall:

(1) Be at least 18 years of age;

(2) Possess a valid Georgia driver's license which is not limited as defined in Code Section 40-5-64;

(3) Not have been convicted, been on probation or parole, or served time on a sentence for a period of seven years previous to the date of application for any felony or any other crime of moral turpitude or a pattern of misdemeanors that evidences a disregard for the law unless he or she has received a pardon and can produce evidence of same. For the purposes of this paragraph, a plea of nolo contendere shall be considered to be a conviction, and a conviction for which a person has been free from custody and free from supervision for at least seven years shall not be considered a conviction unless the conviction is for a dangerous sexual offense which is contained in Code Section 42-1-12 or the criminal offense was committed against a victim who was a minor at the time of the offense;

(4) Submit at least one set of classifiable electronically recorded fingerprints to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall determine whether the applicant may be certified;

(5) Be a United States citizen, or if not a citizen, present federal documentation verified by the United States Department of Homeland Security to be valid documentary evidence of lawful presence in the United States under federal immigration law; and

(6) Provide proof of liability insurance coverage in such amounts as provided by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable.

(c) Such endorsement shall be valid for the same term as such person's driver's license, provided that each person seeking renewal of

a driver's license with such endorsement shall submit to a review of his or her criminal history for verification of his or her continued eligibility for such endorsement prior to making application for such renewal using the same process set forth in subsection (b) of this Code section. If such person no longer satisfies the background requirements set forth herein, he or she shall not be eligible for the inclusion of such endorsement on his or her driver's license, and it shall be renewed without the endorsement.

(d) Every person who operates a motor vehicle for hire in this state shall have his or her Georgia driver's license with the prescribed for-hire license endorsement in his or her possession at all times while operating a motor vehicle for hire in this state or shall have his or her Georgia driver's license and a private background check certification pursuant to subsection (e) of this Code section in his or her possession. Such driver's license with a for-hire endorsement or such driver's license and private background check certification shall be presented to a law enforcement officer upon request by such officer.

(e)(1) A person operating a motor vehicle for hire in this state may obtain a private background check in lieu of obtaining a for-hire endorsement. Such background check shall be conducted by the taxi service, limousine carrier, or ride share network service that employs such driver.

(2) The taxi service, limousine carrier, or ride share network service shall require such person to submit an application to the taxi service, limousine carrier, or ride share network service which includes, but is not limited to, information regarding such person's address, age, driver's license information and number, driving history, motor vehicle registration, automobile liability insurance, and other information necessary to complete a background check on such person.

(3) The taxi service, limousine carrier, or ride share network service shall conduct or cause to be conducted a local and national criminal background check on such person which shall include:

(A) A search of a multistate, multijurisdiction criminal records locator or similar nation-wide data base with validation or primary source search;

(B) A search of the national sex offender registry data base; and

(C) The obtaining and review of a driving history research report.

(4) The taxi service, limousine carrier, or ride share network service shall review the background check and issue a private background check certification to such person; provided, however,

that no such certification shall be issued to a person whose background check discloses that such person:

- (A) Has had more than three moving violations in the prior three-year period or has one major traffic violation, as such term is defined in Code Section 40-5-142, in the prior three-year period;
- (B) Has been convicted within the past seven years of driving under the influence of drugs or alcohol or has been convicted at any time of fraud, a sexual offense, the use of a motor vehicle to commit a felony, a crime involving property damage, a crime involving theft, a crime involving an act of violence, or a crime involving an act of terror;
- (C) Has a match on the national sex offender registry data base;
- (D) Does not have a valid driver's license;
- (E) If such person will be using such person's vehicle as the motor vehicle to be operated for hire, does not possess proof of registration for such vehicle;
- (F) Does not possess proof of liability insurance coverage in such amounts as provided by law for the class of motor vehicle being operated for hire and the requirements for limousine carriers, ride share networks and drivers, and taxi services, as applicable; and
- (G) Is not at least 18 years of age.

(5) Such private background check certification shall be issued in written form or in a form which may be displayed electronically on a smartphone. A digital identification properly issued pursuant to subsection (d) of Code Section 40-1-193 shall constitute sufficient certification of a private background check. Such private background check certification shall be valid for a period of five years from the date of its issuance.

(f) The department is authorized to promulgate rules and regulations as necessary to implement this Code section.

(g) Any person who violates the provisions of this Code section shall be guilty of a misdemeanor. (Code 1981, § 40-5-39, enacted by Ga. L. 2012, p. 580, § 3/HB 865; Ga. L. 2015, p. 1262, § 6/HB 225.)

**The 2015 amendment**, effective July 1, 2015, added subsection (a); redesignated former subsections (a), (b), (c), and (d) as present subsections (b), (c), (d), and (f), respectively; in subsection (b), substituted "provide a for-hire license endorsement for any qualified person under this Code section" for "endorse the driver's license of any approved limousine chauffeur employed by a limousine carrier" at the end of the first sentence of the introductory language, substituted "seven years" for "ten years" twice in paragraph (b)(3), deleted "and" at the end of paragraph (b)(4), substituted ";" and" for the period at the end of paragraph (b)(5), and added (b)(6); in subsection (c), substituted "subsection (b)" for "subsection (a)"

" at the end of the first sentence of the introductory language, substituted "seven years" for "ten years" twice in paragraph (b)(3), deleted "and" at the end of paragraph (b)(4), substituted ";" and" for the period at the end of paragraph (b)(5), and added (b)(6); in subsection (c), substituted "subsection (b)" for "subsection (a)"

stituted the present provisions of subsection (d) for the former provisions, which read "Every chauffeur employed by a limousine carrier shall have his or her Georgia driver's license with the prescribed

endorsement in his or her possession at all times while operating a motor vehicle of a limousine carrier."; and added subsections (e) and (g).

## ARTICLE 3

### CANCELLATION, SUSPENSION, AND REVOCATION OF LICENSES

#### 40-5-54. Mandatory suspension of license; notice of suspension.

(a) The department shall forthwith suspend, as provided in Code Section 40-5-63, the license of any driver upon receiving a record of such driver's conviction of the following offenses, whether charged as a violation of state law or of a local ordinance adopted pursuant to Article 14 of Chapter 6 of this title:

- (1) Homicide by vehicle, as defined by Code Section 40-6-393;
- (2) Any felony in the commission of which a motor vehicle is used;
- (3) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270;
- (4) Racing on highways and streets;
- (5) Using a motor vehicle in fleeing or attempting to elude an officer; or
- (6) Operating a motor vehicle with a revoked, canceled, or suspended registration in violation of Code Section 40-6-15.

(b) All judges of all courts having jurisdiction of the offenses set forth in subsection (a) of this Code section shall, at the time of sentencing, give notice to the defendant on forms prescribed by the department of the suspension of the defendant's driver's license. The period of suspension shall be determined by the department for the term authorized by law. The court shall forward the notice of suspension and the defendant's driver's license to the department within ten days from the date of conviction. The department shall notify the defendant of the period of suspension at the address provided by the defendant. (Ga. L. 1939, p. 135, § 10; Ga. L. 1943, p. 196, § 5; Ga. L. 1951, p. 565, § 7A; Ga. L. 1956, p. 543, § 15; Ga. L. 1957, p. 124, § 4; Ga. L. 1964, p. 225, § 3; Ga. L. 1968, p. 430, § 8; Ga. L. 1971, p. 249, § 1; Code 1933, § 68B-305, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1976, p. 1073, § 1; Ga. L. 1983, p. 1000, § 2; Ga. L. 1987, p. 1082, § 1; Ga. L. 1988, p. 897, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 1992, p. 1284, § 1; Ga. L. 1993, p. 940, § 1; Ga. L. 2000, p. 951, § 5-16; Ga. L. 2002, p. 1024, § 4; Ga. L. 2004,

p. 749, § 7; Ga. L. 2011, p. 355, § 4/HB 269; Ga. L. 2015, p. 60, § 4-13/SB 100.)

**The 2015 amendment**, effective July 1, 2015, added “or” at the end of paragraph (a)(5); deleted former paragraph (a)(6), which read “Fraudulent or fictitious use of or application for a license as provided in Code Section 40-5-120 or 40-5-125;”; redesignated former paragraph (a)(7) as present paragraph (a)(6); substituted a period for “; or” at the end of paragraph (a)(6); and deleted former paragraph (a)(8), which read “Any felony violation of Article 1 of Chapter 9 of Title 16

if such offense related to an identification document as defined in Code Section 16-9-4.” See editor’s note for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

## 40-5-55. Implied consent to chemical tests.

### JUDICIAL DECISIONS

#### ANALYSIS

##### GENERAL CONSIDERATION NOTICE TESTING

#### General Consideration

**Failure to submit to chemical testimony by arresting officer.** — Because the defendant refused to submit to the chemical testimony required by the arresting officer pursuant to O.C.G.A. § 40-5-55, the defendant was excluded from the discovery provisions of O.C.G.A. § 40-6-392(a)(4), and the trial court correctly denied the defendant’s discovery request made pursuant to those provisions. *Massey v. State*, 331 Ga. App. 430, 771 S.E.2d 122 (2015).

#### Notice

##### Notice was timely.

Trial court did not err by refusing to suppress the defendant’s blood-test results based on not being under arrest prior to being read Georgia’s Implied Consent notice because although the defendant’s recollection differed from that of the law-enforcement officer, and although defense counsel cross-examined the officer extensively as to alleged inconsistencies in the chronology of events, the officer testified that the officer issued citations to the defendant before reading Georgia’s

Implied Consent notice. *Chernowski v. State*, 330 Ga. App. 702, 769 S.E.2d 126 (2015).

#### Testing

**Determination of actual consent required.** — Based on the United States Supreme Court decision in *Missouri v. McNeely*, in which the court rejected a *per se* rule that the natural metabolism of alcohol in a person’s bloodstream constitutes an exigency justifying an exception to the U.S. Const., amend. 4’s search warrant requirement for nonconsensual blood testing in all driving under the influence cases, the Georgia Supreme Court overruled *Strong v. State*, 231 Ga. 514 (1973) to the extent that decision holds otherwise. *Williams v. State*, 296 Ga. 817, 771 S.E.2d 373 (2015).

**Determination of actual consent required.** — Defendant’s driving under the influence case was remanded to the trial court because in considering the defendant’s motion to suppress, the court failed to address whether the defendant gave actual consent to the procuring and testing of blood, which would require the determination of the voluntariness of the

consent under the totality of the circumstances. *Williams v. State*, 296 Ga. 817, 771 S.E.2d 373 (2015).

**40-5-57.1. Suspension of licenses of persons under age 21 for certain offenses; surrender of license to court upon conviction; suspension of licenses of persons under age 18 for certain point accumulations; reinstatement of license following suspension.**

(a) Notwithstanding any other provision of this chapter, the driver's license of any person under 21 years of age convicted of hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, racing on highways or streets, using a motor vehicle in fleeing or attempting to elude an officer, reckless driving, any offense for which four or more points are assessable under subsection (c) of Code Section 40-5-57, or a violation of Code Section 40-6-391 shall be suspended by operation of law as provided by this Code section. A plea of nolo contendere shall be considered a conviction for the purposes of this subsection. The court in which such conviction is had shall require the surrender to it of the driver's license then held by the person so convicted, and the court shall thereupon forward such license and a copy of the disposition to the department within ten days after the conviction. The department shall send notice of any suspension imposed pursuant to this subsection via certified mail to the address reflected on its records as the person's mailing address.

(b) The driver's license of any person under 18 years of age who has accumulated a violation point count of four or more points under Code Section 40-5-57 in any consecutive 12 month period shall be suspended by the department as provided by subsection (c) of this Code section. A plea of nolo contendere shall be considered a conviction for purposes of this subsection. Notice of suspension shall be given by certified mail or statutory overnight delivery, return receipt requested, to the address reflected in the department's records as the driver's mailing address or, in lieu thereof, notice may be given by personal service upon such person. Notice given by certified mail or statutory overnight delivery, return receipt requested, mailed to the person's last known address shall be *prima-facie* evidence that such person received the required notice.

(c) A person whose driver's license has been suspended under subsection (a) or (b) of this Code section shall:

(1) Subject to the requirements of subsection (d) of this Code section and except as otherwise provided by paragraph (2) of this subsection:

(A) Upon a first such suspension, be eligible to apply for license reinstatement and, subject to payment of required fees, have his or her driver's license reinstated after six months; and

(B) Upon a second or subsequent such suspension, be eligible to apply for license reinstatement and, subject to payment of required fees, have his or her driver's license reinstated after 12 months; or

(2)(A) Upon the first conviction of a violation of Code Section 40-6-391, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, have his or her license suspended for a period of six months unless the driver's blood alcohol concentration at the time of the offense was 0.08 grams or more or the person has previously been subject to a suspension pursuant to paragraph (1) of this subsection, in which case the period of suspension shall be for 12 months.

(B) Upon the second conviction of a violation of Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, have his or her license suspended for a period of 18 months.

(C) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, be considered a habitual violator, and such person's license shall be revoked as provided for in Code Section 40-5-58.

(c.1) In any case where a person's driver's license was administratively suspended as a result of a violation of Code Section 40-6-391 for which the person's driver's license has been suspended pursuant to subsection (c) of this Code section, the administrative license suspension period and the license suspension period provided by this Code section may run concurrently, and any completed portion of such administrative license suspension period shall apply toward completion of the license suspension period provided by this Code section.

(d)(1) Any driver's license suspended under subsection (a) or (b) of this Code section for commission of any offense other than violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a defensive driving course approved by the commissioner pursuant to Code Section 40-5-83 and pays the applicable reinstatement fee. Any driver's license suspended under subsection (a) of this Code section

for commission of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays the applicable reinstatement fee.

(2) The reinstatement fee for a first such suspension shall be \$210.00 or \$200.00 if paid by mail. The reinstatement fee for a second or subsequent such suspension shall be \$310.00 or \$300.00 if paid by mail.

(e) A suspension provided for in subsection (a) of this Code section shall be imposed based on the person's age on the date of the conviction giving rise to the suspension. (Code 1981, § 40-5-57.1, enacted by Ga. L. 1997, p. 760, § 15; Ga. L. 2000, p. 951, § 5-20; Ga. L. 2000, p. 1457, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 184, §§ 2-2, 3-2; Ga. L. 2001, p. 208, §§ 2-2, 3-2; Ga. L. 2002, p. 415, § 40; Ga. L. 2004, p. 471, § 3; Ga. L. 2005, p. 334, §§ 17-13, 17-14/HB 501; Ga. L. 2009, p. 679, § 4/HB 160; Ga. L. 2012, p. 72, § 3/SB 236; Ga. L. 2014, p. 710, § 1-9/SB 298; Ga. L. 2015, p. 60, § 4-15/SB 100.)

**The 2015 amendment**, effective July 1, 2015, rewrote this Code section. See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of

Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

## 40-5-57.2. Suspension based on violation of Code Section 40-6-255.

Reserved. Repealed by Ga. L. 2015, p. 60, § 4-14/SB 100, effective July 1, 2015.

**Editor's notes.** — This Code section was based on Code 1981, § 40-5-57.2, enacted by Ga. L. 1998, p. 1658, § 1.

Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of Part IV of this

Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

## 40-5-58. Habitual violators; probationary licenses.

### JUDICIAL DECISIONS

#### ANALYSIS

#### GENERAL CONSIDERATION

##### General Consideration

##### Driving vehicle after receiving notice of license revocation.

Although the defendant had been able

to obtain a license under a different surname, the defendant had been notified after the defendant's third DUI violation under the defendant's other surname that the defendant was prohibited from driving

**General Consideration (Cont'd)**

as a habitual violator under O.C.G.A. § 40-5-58, and the license in another

name was no defense to the defendant's habitual violator status. *Munna v. State*, 331 Ga. App. 410, 771 S.E.2d 106 (2015).

**40-5-63. Periods of suspension; conditions to return of license.**

(a) The driver's license of any person convicted of an offense listed in Code Section 40-5-54 or of violating Code Section 40-6-391, unless the driver's license has been previously suspended pursuant to Code Sections 40-5-67.1 and 40-5-67.2, shall by operation of law be suspended and such suspension shall be subject to the following terms and conditions; provided, however, that any person convicted of a drug related offense pursuant to Code Section 40-6-391 shall be governed by the suspension requirements of Code Section 40-5-75; and further provided that each charge for which a conviction was obtained shall be treated as a separate transaction for the purpose of imposing a license suspension hereunder, even if said convictions arise from a single incident; and further provided that the department shall treat each conviction received in the order in which said convictions are processed even if it is not the order in which said offenses occurred:

(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be 12 months. At the end of 120 days, the person may apply to the department for early reinstatement of his or her driver's license. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits proof of completion of either a defensive driving course approved by the commissioner pursuant to Code Section 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed restoration fee. A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed restoration fee. For purposes of this paragraph, an accepted plea of nolo contendere to an offense listed in Code Section 40-5-54 by a person who is under 18 years of age at the time of arrest shall constitute a conviction. For the purposes of this paragraph only, an accepted plea of nolo contendere by a person 21

years of age or older, with no conviction of and no plea of nolo contendere accepted to a charge of violating Code Section 40-6-391 within the previous five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered a conviction, and the court having jurisdiction shall forward, as provided in Code Section 40-6-391.1, the record of such disposition of the case to the department and the record of such disposition shall be kept on file for the purpose of considering and counting such accepted plea of nolo contendere as a conviction under paragraphs (2) and (3) of this subsection;

(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be three years. At the end of 120 days, the person may apply to the department for reinstatement of his or her driver's license; except that if such license was suspended as a result of a second conviction of a violation of Code Section 40-6-391 within five years, the person shall not be eligible to apply for license reinstatement until the end of 18 months. Such license shall be reinstated if such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail, provided that, if such license was suspended as a result of a conviction of an offense listed in Code Section 40-5-54, such license shall be reinstated if such person submits proof of completion of either a defensive driving course approved by the commissioner pursuant to Code Section 40-5-83 or a DUI Alcohol or Drug Use Risk Reduction Program and pays the prescribed restoration fee. A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid and shall remain suspended until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program, provides proof of installation and maintenance of an ignition interlock device for a period of one year coinciding with the issuance of an ignition interlock device limited driving permit as provided in Code Section 40-5-64 unless waived due to financial hardship, and pays the prescribed restoration fee. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period of time shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere to a charge of violating Code Section 40-6-391 and all prior accepted pleas of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were ob-

tained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions; or

(3) Upon the third conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, such person shall be considered a habitual violator, and said license shall be revoked as provided for in paragraph (1) of subsection (a) of Code Section 40-5-62. For purposes of this paragraph, a plea of nolo contendere and all previous accepted pleas of nolo contendere to an offense listed in Code Section 40-5-54 within such five-year period shall constitute a conviction. For the purposes of this paragraph, a plea of nolo contendere and all prior accepted pleas of nolo contendere to a charge of violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a plea of nolo contendere is accepted, shall be considered and counted as convictions.

(b) The periods of suspension provided for in this Code section shall begin on the date the person is convicted of an offense listed in Code Section 40-5-54 or of violating Code Section 40-6-391.

(c) In all cases in which the department may return a license to a driver prior to the termination of the full period of suspension, the department may require such tests of driving skill and knowledge as it determines to be proper, and the department's discretion shall be guided by the driver's past driving record and performance, and the driver shall pay the applicable restoration fee. In addition to any other requirement the department may impose, a driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 shall not become valid, shall remain suspended, and shall not be returned to such driver or otherwise reinstated until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program.

(d)(1) Any person convicted of violating subsection (a) of Code Section 40-6-393, relating to homicide by vehicle, or Code Section 40-6-394, relating to serious injury by vehicle, shall have his or her license suspended for a period of three years. Such person shall not be eligible for early reinstatement of said driver's license as provided in this Code section or in Article 4 of this chapter and shall not be eligible for a limited driving permit as provided in Code Section 40-5-64.

(2) For purposes of this chapter, an accepted plea of nolo contendere to any violation of Code Section 40-6-393 or 40-6-394 shall

constitute a conviction. (Code 1933, § 68B-312, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1976, p. 1670, § 1; Ga. L. 1978, p. 225, § 4; Ga. L. 1982, p. 3, § 40; Ga. L. 1982, p. 1601, §§ 1, 2; Ga. L. 1983, p. 3, § 29; Ga. L. 1983, p. 487, § 2; Ga. L. 1983, p. 1000, § 6; Ga. L. 1985, p. 149, § 40; Ga. L. 1985, p. 758, § 7; Ga. L. 1987, p. 1082, § 4; Ga. L. 1989, p. 1698, § 2; Ga. L. 1989, p. 14, § 40; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 1886, § 3; Ga. L. 1992, p. 779, § 20; Ga. L. 1992, p. 2564, § 2; Ga. L. 1992, p. 2746, § 2; Ga. L. 1992, p. 2785, §§ 9, 10; Ga. L. 1993, p. 940, § 5; Ga. L. 1994, p. 730, § 2; Ga. L. 1997, p. 760, § 16; Ga. L. 1997, p. 1085, § 3; Ga. L. 2000, p. 951, §§ 5-24, 5-25; Ga. L. 2000, p. 1457, § 2; Ga. L. 2001, p. 208, §§ 2-3, 3-3; Ga. L. 2005, p. 334, § 17-15/HB 501; Ga. L. 2006, p. 449, § 9/HB 1253; Ga. L. 2007, p. 47, § 40/SB 103; Ga. L. 2010, p. 932, § 13/HB 396; Ga. L. 2011, p. 355, § 7/HB 269; Ga. L. 2013, p. 878, § 1/HB 407; Ga. L. 2014, p. 710, § 1-12/SB 298; Ga. L. 2015, p. 60, § 4-16/SB 100.)

**The 2015 amendment**, effective July 1, 2015, deleted former subsections (e) and (f), which read “(e) The driver's license of any person under 21 years of age who is convicted of unlawful possession of alcoholic beverages in violation of Code Section 3-3-23 while operating a motor vehicle may be suspended for a period of not less than 120 days. At the end of 120 days, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of \$35.00 or \$25.00 when processed by mail. For purposes of this subsection, a sentence under subsection (c) of Code Section 3-3-23.1 shall not be considered a conviction, and the driver's license of such person shall not be suspended, provided that such person completes a DUI Alcohol or Drug Use Risk Reduction Program within 120 days after sentencing.

“(f) The driver's license of any person who is convicted of attempting to pur-

chase an alcoholic beverage in violation of paragraph (2) of subsection (a) of Code Section 3-3-23 upon the first conviction shall be suspended for a period of six months and upon the second or subsequent conviction shall be suspended for a period of one year. At the end of the period of suspension, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated upon payment of a restoration fee of \$35.00 or \$25.00 when processed by mail. For purposes of this subsection, a sentence under subsection (c) of Code Section 3-3-23.1 shall not be considered a conviction, and the driver's license of such person shall not be suspended.” See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

#### 40-5-64. Limited driving permits for certain offenders.

##### (a) To whom issued.

(1) Notwithstanding any contrary provision of Code Section 40-5-57 or 40-5-63 or any other Code section of this chapter, any person who has not been previously convicted or adjudicated delinquent for a violation of Code Section 40-6-391 within five years, as

measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, may apply for a limited driving permit when and only when that person's driver's license has been suspended in accordance with subsection (d) of Code Section 40-5-57, paragraph (1) of subsection (a) of Code Section 40-5-63, paragraph (1) of subsection (a) of Code Section 40-5-67.2, or subsection (a) of Code Section 40-5-57.1, when the person is 18 years of age or older and his or her license was suspended for exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour, and the sentencing judge, in his or her discretion, decides it is reasonable to issue a limited driving permit.

(2) Any person whose driver's license has been suspended as a result of a second conviction for violating Code Section 40-6-391 within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, may apply for an ignition interlock limited driving permit after serving at least 120 days of the suspension required for such conviction and providing either a certificate of eligibility from a drug court program in the court in which he or she was convicted of the offense for which such suspension was imposed or by submitting proof of enrollment in clinical treatment as provided in Code Section 40-5-63.1. No person who has been granted an exemption from the ignition interlock device requirements of Article 7 of Chapter 8 of Title 42 shall be eligible for a limited driving permit or any other driving privilege for a period of one year.

(3) To the extent a person is subject to more than one suspension for which a permit may be issued, the department shall not issue such permit unless the suspensions are for a conviction for driving under the influence in violation of Code Section 40-6-391 imposed pursuant to Code Section 40-5-63 and an administrative suspension imposed pursuant to paragraph (1) of subsection (a) of Code Section 40-5-67.2 arising from the same incident.

(b) **Application form.** Applications for limited driving permits shall be made upon such forms as the commissioner may prescribe. Such forms shall require such information as is necessary for the department to determine the need for such permit. All applications shall be signed by the applicant before a person authorized to administer oaths.

(c) **Standards for approval.** The department shall issue a limited driving permit if the application indicates that refusal to issue such permit would cause extreme hardship to the applicant. Except as otherwise provided by subsection (c.1) of this Code section, for the purposes of this Code section, "extreme hardship" means that the

applicant cannot reasonably obtain other transportation, and therefore the applicant would be prohibited from:

- (1) Going to his or her place of employment or performing the normal duties of his or her occupation;
- (2) Receiving scheduled medical care or obtaining prescription drugs;
- (3) Attending a college or school at which he or she is regularly enrolled as a student;
- (4) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner;
- (5) Attending under court order any driver education or improvement school or alcohol or drug program or course approved by the court which entered the judgment of conviction resulting in suspension of his or her driver's license or by the commissioner;
- (6) Attending court, reporting to a community supervision, juvenile probation, or Article 6 of Chapter 8 of Title 42 probation office or reporting to a community supervision officer, county or Department of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42 or performing community service; or
- (7) Transporting an immediate family member who does not hold a valid driver's license for work, medical care, or prescriptions or to school.

**(c.1) Exception to standards for approval.**

(1) The provisions of paragraphs (2), (3), (4), and (5) of subsection (c) of this Code section shall not apply and shall not be considered for purposes of granting a limited driving permit or imposing conditions thereon under this Code section in the case of a driver's license suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22.

(2) An ignition interlock device limited driving permit shall be restricted to allow the holder thereof to drive solely for the following purposes:

- (A) Going to his or her place of employment or performing the normal duties of his or her occupation;
- (B) Attending a college or school at which he or she is regularly enrolled as a student;

(C) Attending regularly scheduled sessions or meetings of treatment support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner; and

(D) Going for monthly monitoring visits with the permit holder's ignition interlock device service provider.

(d) **Conditions attached.** A limited driving permit shall be endorsed with such conditions as the commissioner deems necessary to ensure that such permit will be used by the permittee only to avoid the conditions of extreme hardship. Such conditions may include the following restrictions:

(1) Specific places between which the permittee may be allowed to operate a motor vehicle;

(2) Routes to be followed by the permittee;

(3) Times of travel;

(4) The specific vehicles which the permittee may operate;

(4.1) The installation and use of an ignition interlock device in accordance with Article 7 of Chapter 8 of Title 42, which shall be required for any permittee who is applying for an ignition interlock limited driving permit; and

(5) Such other restrictions as the department may require.

(e) **Fees, duration, renewal, and replacement of permit.**

(1) A permit issued pursuant to this Code section shall be \$25.00 and shall become invalid upon the driver's eighteenth birthday in the case of a suspension under paragraph (2) of subsection (a.1) of Code Section 40-5-22, upon the expiration of one year following issuance thereof in the case of a suspension for an offense listed in Code Section 40-5-54 or a suspension under Code Section 40-5-57 or a suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-63 for a violation of Code Section 40-6-391, or upon the expiration of 30 days in the case of an administrative license suspension in accordance with paragraph (1) of subsection (a) of Code Section 40-5-67.2; except that such limited driving permit shall expire upon any earlier reinstatement of the driver's license. A person may apply to the department for a limited driving permit immediately following such conviction if he or she has surrendered his or her driver's license to the court in which the conviction was adjudged or to the department if the department has processed the citation or conviction. Upon the applicant's execution of an affidavit attesting to such facts and to the fact that the court had not imposed a suspension or revocation of his or her driver's license or driving privileges

inconsistent with the driving privileges to be conferred by the limited driving permit applied for, the department may issue such person a limited driving permit. Permits issued pursuant to this Code section are renewable upon payment of a renewal fee of \$5.00. Permits may be renewed until the person has his or her license reinstated for the violation that was the basis of the issuance of the permit. Upon payment of a fee in an amount the same as that provided by Code Section 40-5-25 for issuance of a Class C driver's license, a person may be issued a replacement for a lost or destroyed limited driving permit issued to him or her.

(2) An ignition interlock device limited driving permit shall be valid for a period of one year. Upon successful completion of one year of monitoring of such ignition interlock device, the restriction for maintaining and using such ignition interlock device shall be removed, and the permit may be renewed for additional periods of two months as provided in paragraph (1) of this subsection.

(f) **Liability of issuing officer.** No official or employee of the department shall be criminally or civilly liable or subject to being held in contempt of court for issuing a limited driving permit in reliance on the truth of the affidavits required by this Code section.

(g) **Revocation of permit.**

(1)(A) Any permittee who is convicted of violating any state law or local ordinance relating to the movement of vehicles or any permittee who is convicted of violating the conditions endorsed on his or her permit shall have his or her permit revoked by the department. Any court in which such conviction is had shall require the permittee to surrender the permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction.

(B) Upon receipt of notice from the Department of Behavioral Health and Developmental Disabilities that a permittee who is required to complete a substance abuse treatment program pursuant to Code Section 40-5-63.1 enrolled in but failed to attend or complete such program as scheduled, the department shall revoke such person's limited driving permit and, by regular mail to his or her last known address, notify such person of such revocation. Such notice of revocation shall inform the person of the grounds for and effective date of the revocation and of the right to review. The notice of revocation shall be deemed received three days after mailing.

(C) Upon receipt of notice from a provider center for ignition interlock devices that an ignition interlock device which a permittee is required to use has been tampered with or the permittee has failed to report for monitoring of such device as required by law, the

department shall revoke such permittee's limited driving permit and, by regular mail to his or her last known address, notify such person of such revocation. Such notice of revocation shall inform the person of the grounds for and effective date of the revocation and of the right to review. The notice of revocation shall be deemed received three days after mailing.

(2) Any person whose limited driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department. In any case of revocation of a limited driving permit pursuant to subparagraph (A) of paragraph (1) of this subsection, the department may impose an additional period of suspension for the conviction upon which revocation of the permit was based.

(h) **Hearings.** Any person whose permit has been revoked or who has been refused a permit by the department may make a request in writing for a hearing to be provided by the department. Such hearing shall be provided by the department within 30 days after the receipt of such request and shall follow the procedures required by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Appeal from such hearing shall be in accordance with said chapter.

(i) **Rules and regulations.** The commissioner may promulgate such rules and regulations as are necessary to implement this Code section.

(j) **Penalty.** Any permittee who operates a motor vehicle in violation of any condition specified on the permit shall be guilty of a misdemeanor. (Code 1933, § 68B-311, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1977, p. 648, § 1; Ga. L. 1978, p. 225, § 3; Ga. L. 1983, p. 1000, § 7; Ga. L. 1985, p. 149, § 40; Ga. L. 1985, p. 758, § 9; Ga. L. 1990, p. 2048, § 4; Ga. L. 1992, p. 779, § 21; Ga. L. 1992, p. 2564, § 3; Ga. L. 1992, p. 2785, § 11; Ga. L. 1994, p. 1600, § 1; Ga. L. 1997, p. 760, § 18; Ga. L. 1999, p. 391, § 5; Ga. L. 2000, p. 951, § 5-27; Ga. L. 2000, p. 1457, § 4; Ga. L. 2002, p. 1324, § 1-20; Ga. L. 2003, p. 796, § 1; Ga. L. 2004, p. 471, § 6; Ga. L. 2006, p. 449, § 10/HB 1253; Ga. L. 2008, p. 171, § 7/HB 1111; Ga. L. 2009, p. 453, § 3-4/HB 228; Ga. L. 2010, p. 199, § 3/HB 258; Ga. L. 2010, p. 932, § 14/HB 396; Ga. L. 2011, p. 355, § 8/HB 269; Ga. L. 2012, p. 72, § 5/SB 236; Ga. L. 2013, p. 878, § 2/HB 407; Ga. L. 2015, p. 60, § 4-17/SB 100; Ga. L. 2015, p. 422, § 5-59/HB 310.)

**The 2015 amendments.** — The first 2015 amendment, effective July 1, 2015, deleted "paragraph (2) of subsection (a.1) of Code Section 40-5-22" following "in accordance with" in the middle of paragraph (a)(1); added "or performing the normal duties of his or her occupation" at the end

of paragraph (c)(1) and at the end of subparagraph (c.1)(2)(A). See editor's note for applicability. The second 2015 amendment, effective July 1, 2015, substituted "community supervision, juvenile probation, or Article 6 of Chapter 8 of Title 42 probation office or reporting to a commu-

nity supervision officer, county or Department of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42" for "probation office or officer," in paragraph (c)(6). See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of

this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

Ga. L. 2015, p. 422, § 6-1/HB 310, not codified by the General Assembly, provides that: "This Act shall become effective July 1, 2015, and shall apply to sentences entered on or after such date."

Ga. L. 2015, p. 60, § 4-17/SB 100, purported to amend subsection (a) but only amended paragraph (a)(1).

## JUDICIAL DECISIONS

**Cited** in Barrow v. Mikell, 331 Ga. App. 547, 771 S.E.2d 211 (2015).

## 40-5-66. Appeals from decisions of department.

### JUDICIAL DECISIONS

#### Untimely appeal warranted dismissal.

Although a licensee did not have any grounds for appealing the initial revocation decision in 2010, the trial court properly denied the licensee's 2013 appeal as

untimely because O.C.G.A. § 40-5-66 required appeals to be made within 30 days of the revocation decision by the Georgia Department of Driver Services. Barrow v. Mikell, 331 Ga. App. 547, 771 S.E.2d 211 (2015).

## 40-5-67.1. Chemical tests; implied consent notices; rights of motorists; test results; refusal to submit; suspension or denial; hearing and review; compensation of officers; inspection and certification of breath-testing instruments.

### JUDICIAL DECISIONS

#### ANALYSIS

#### GENERAL CONSIDERATION ADVISEMENT TO DRIVER OF RIGHTS

#### General Consideration

**Determination of actual consent required.** — Based on the United States Supreme Court decision in *Missouri v. McNeely*, in which the Court rejected a per se rule that the natural metabolism of alcohol in a person's bloodstream constitutes an exigency justifying an exception to the U.S. Const., amend. 4 search warrant requirement for nonconsensual blood testing in all driving under the influence

cases, the Georgia Supreme Court overruled *Strong v. State*, 231 Ga. 514 (1973) to the extent that decision holds otherwise. *Williams v. State*, 296 Ga. 817, 771 S.E.2d 373 (2015).

**Stipulation at administrative license suspension hearing admissible in subsequent legal proceedings.** — Defendant, having accepted the benefit of the stipulation at the administrative license suspension (ALS) hearing in the form of the reinstatement of the defen-

**General Consideration (Cont'd)**

dant's license and having shown no fraud or mistake, acquiesced to counsel's stipulation to plead guilty to the driving under the influence of alcohol (DUI) at the ALS hearing and to the admissibility of the final decision from the ALS hearing in subsequent legal proceedings related to the DUI charge. *Flading v. State*, 327 Ga. App. 346, 759 S.E.2d 67 (2014).

**Cited in** *Barrow v. Mikell*, 331 Ga. App. 547, 771 S.E.2d 211 (2015).

**Advisement to Driver of Rights****Failure to read specific language of implied consent warning.**

Trial court erred when the court granted the defendant's motion to suppress evidence based on the officer adding words to the implied consent notice because the added words did not alter the substance of the notice nor affect the defendant's consent to testing. *State v. Fedrick*, 329 Ga. App. 75, 763 S.E.2d 739 (2014).

**ARTICLE 3A**

**SUSPENSION OF LICENSE FOR BEING IN CONTROL OF A  
MOVING VEHICLE UNDER THE INFLUENCE OF A  
CONTROLLED SUBSTANCE OR MARIJUANA**

**40-5-75. Suspension of licenses by operation of law.**

(a) The driver's license of any person convicted of driving or being in actual physical control of any moving vehicle while under the influence of a controlled substance or marijuana in violation of paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391 or the law of any other jurisdiction, shall by operation of law be suspended, and such suspension shall be subject to the following terms and conditions:

(1) Upon the first conviction of any such offense, with no arrest and conviction of and no plea of nolo contendere accepted to such offense within the previous five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for not less than 180 days. At the end of 180 days, the person may apply to the department for reinstatement of his or her driver's license. Such license shall be reinstated only if the person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays to the department a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail;

(2) Upon the second conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, the period of suspension shall be for three years, provided that after one year from the date of the conviction, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a

restoration fee of \$310.00 or \$300.00 when such reinstatement is processed by mail; and

(3) Upon the third or subsequent conviction of any such offense within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, such person's license shall be suspended for a period of five years. At the end of two years, the person may apply to the department for a three-year driving permit upon compliance with the following conditions:

(A) Such person has not been convicted or pleaded nolo contendere to any drug related offense, including driving under the influence, for a period of two years immediately preceding the application for such permit;

(B) Such person submits proof of completion of a licensed drug treatment program. Such proof shall be submitted within two years of the license suspension and prior to the issuance of the permit. Such licensed drug treatment program shall be paid for by the offender. The offender shall pay a permit fee of \$25.00 to the department;

(C) Such person submits proof of financial responsibility as provided in Chapter 9 of this title; and

(D) Refusal to issue such permit would cause extreme hardship to the applicant. For the purposes of this subparagraph, the term "extreme hardship" means that the applicant cannot reasonably obtain other transportation, and, therefore, the applicant would be prohibited from:

(i) Going to his or her place of employment or performing the normal duties of his or her occupation;

(ii) Receiving scheduled medical care or obtaining prescription drugs;

(iii) Attending a college or school at which he or she is regularly enrolled as a student; or

(iv) Attending regularly scheduled sessions or meetings of support organizations for persons who have addiction or abuse problems related to alcohol or other drugs, which organizations are recognized by the commissioner.

Any permittee who is convicted of violating any state law or local ordinance relating to the movement of vehicles or any permittee who is convicted of violating the conditions endorsed on his or her permit shall have his or her permit revoked by the department. Any court in which such conviction is had shall require the permittee to surrender

the permit to the court, and the court shall forward it to the department within ten days after the conviction, with a copy of the conviction. Any person whose limited driving permit has been revoked shall not be eligible to apply for a driver's license until six months from the date such permit was surrendered to the department. At the end of five years from the date on which the license was suspended, the person may apply to the department for reinstatement of his or her driver's license by submitting proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and paying to the department a restoration fee of \$410.00 or \$400.00 when such reinstatement is processed by mail.

(b) Except as provided in Code Section 40-5-76, whenever a person is convicted of driving or being in actual physical control of any moving vehicle while under the influence of a controlled substance or marijuana in violation of paragraph (2), (4), or (6) of subsection (a) of Code Section 40-6-391 or the law of any other jurisdiction, the court in which such conviction is had shall require the surrender to it of any driver's license then held by the person so convicted, and the court shall thereupon forward such license and a copy of its order to the department within ten days after the conviction. The periods of suspension provided for in this Code section shall begin on the date of surrender of the driver's license or on the date that the department processes the conviction or citation, whichever shall first occur.

(c) Application for reinstatement of a driver's license under paragraph (1) or (2) of subsection (a) of this Code section shall be made on such forms as the commissioner may prescribe and shall be accompanied by proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail. Application for a three-year driving permit under paragraph (3) of subsection (a) of this Code section shall be made on such form as the commissioner may prescribe and shall be accompanied by proof of completion of an approved residential drug treatment program and a fee of \$25.00 for such permit.

(d) Notwithstanding any other provision of this Code section or any other provision of this chapter, any person whose license is suspended pursuant to this Code section shall not be eligible for early reinstatement of his or her license and shall not be eligible for a limited driving permit, but such person's license shall be reinstated only as provided in this Code section or Code Section 40-5-76.

(e) Except as provided in subsection (a) of this Code section, it shall be unlawful for any person to operate any motor vehicle in this state after such person's license has been suspended pursuant to this Code section if such person has not thereafter obtained a valid license. Any person who is convicted of operating a motor vehicle before the

department has reinstated such person's license or issued such person a three-year driving permit shall be punished by a fine of not less than \$750.00 nor more than \$5,000.00 or by imprisonment in the penitentiary for not more than 12 months, or both.

(f) Licensed drivers who are 16 years of age who are adjudicated in a juvenile court pursuant to this Code section may, at their option, complete a DUI Alcohol or Drug Use Risk Reduction Program or an assessment and intervention program approved by the juvenile court.

(g) Notwithstanding any other provision of this chapter to the contrary, the suspension imposed pursuant to this Code section shall be in addition to and run consecutively to any other suspension imposed by the department at the time of the conviction that results in said suspension. If the person has never been issued a driver's license in the State of Georgia or holds a driver's license issued by another state, the person shall not be eligible for a driver's license for the applicable period of suspension following his or her submission of an application for issuance thereof. (Code 1981, § 40-5-75, enacted by Ga. L. 1990, p. 1149, § 1; Ga. L. 1990, p. 1097, § 1.5; Ga. L. 1991, p. 1767, § 1; Ga. L. 1992, p. 779, § 25; Ga. L. 1992, p. 2785, § 13; Ga. L. 1994, p. 97, § 40; Ga. L. 1994, p. 730, §§ 3-5; Ga. L. 1997, p. 143, § 40; Ga. L. 2000, p. 20, § 23; Ga. L. 2000, p. 951, § 5-39; Ga. L. 2004, p. 471, § 7; Ga. L. 2005, p. 334, § 17-16/HB 501; Ga. L. 2006, p. 449, § 11/HB 1253; Ga. L. 2007, p. 47, § 40/SB 103; Ga. L. 2007, p. 117, § 1/HB 419; Ga. L. 2009, p. 679, § 7/HB 160; Ga. L. 2010, p. 932, § 15/HB 396; Ga. L. 2011, p. 355, § 10/HB 269; Ga. L. 2013, p. 222, § 15/HB 349; Ga. L. 2013, p. 294, § 4-47/HB 242; Ga. L. 2015, p. 60, § 4-18/SB 100.)

**The 2015 amendment**, effective July 1, 2015, rewrote this Code section. See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of

Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

## ARTICLE 4

### RESTORATION OF LICENSES TO PERSONS COMPLETING DEFENSIVE DRIVING COURSE OR ALCOHOL OR DRUG PROGRAM

#### 40-5-81. Program optional; certification and approval of courses; prohibited behavior by a clinic or program.

(a) Any defensive driving course or defensive driving program at which attendance is required by court order shall conform to the requirements of this article. When a defensive driving course, defensive driving program, or DUI Alcohol or Drug Use Risk Reduction Program

is required by a court having jurisdiction over misdemeanor traffic law offenses or by any prosecuting attorney thereof, such course or program shall be certified or approved by the department under the provisions of Code Sections 40-5-82 and 40-5-83, as applicable. Certificates of completion from unlicensed defensive driving courses shall not be recognized for any purposes under this article.

(b) Whenever any person is authorized or required to attend a driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program as a condition of any sentence imposed under this title or any ordinance enacted pursuant to this title or as a condition of the retention or restoration of the person's driving privilege, such person, in complying with such condition, shall be authorized to attend any driver improvement clinic approved under this article or DUI Alcohol or Drug Use Risk Reduction Program certified under this article; and no judicial officer, community supervision officer, law enforcement officer, or other officer or employee of a court or person who owns, operates, or is employed by a private company which has contracted to provide private probation services for misdemeanor cases shall specify, directly or indirectly, a particular driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program which the person may or shall attend. This Code section shall not prohibit any judicial officer, community supervision officer, law enforcement officer, or other officer or employee of a court or owner, operator, or employee of a private company which has contracted to provide probation services for misdemeanor offenders from furnishing any person, upon request, the names of approved driver improvement clinics or certified DUI Alcohol or Drug Use Risk Reduction Programs.

(c) It shall be unlawful for the owner, agent, servant, or employee of any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the department to directly or indirectly solicit business by personal solicitation on public property, by phone, by e-mail, or by mail. A violation of this subsection shall be a misdemeanor. Advertising in any mass media, including, but not limited to, newspapers, radio, television, magazines, Internet, or telephone directories, by a driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program shall not be considered a violation of this subsection.

(d) It shall be unlawful for the owner, agent, servant, or employee of any driver improvement clinic or DUI Alcohol or Drug Use Risk Reduction Program licensed by the department to directly or indirectly offer, for purposes of the enrollment or solicitation of any student or prospective student, any item of monetary value, including but not limited to United States legal tender, food, gasoline cards, debit gift cards, or merchant gift cards to any:

(1) Student or agent or legal representative of a student;

(2) Employee or agent of a private company which has contracted with a county, municipality, or consolidated government to provide probation services pursuant to Article 6 of Chapter 8 of Title 42;

(3) Law enforcement officer; or

(4) Officer or employee of the judicial branch or a court.

A violation of this subsection shall be a misdemeanor. (Code 1933, § 68D-102, enacted by Ga. L. 1978, p. 2302, § 1; Code 1981, § 40-5-85.2, enacted by Ga. L. 1985, p. 758, § 20; Ga. L. 1990, p. 2048, § 4; Ga. L. 1992, p. 2564, § 9; Ga. L. 1992, p. 2785, § 15; Ga. L. 1992, p. 2978, § 9.1; Ga. L. 1993, p. 454, § 1; Ga. L. 2000, p. 951, § 5-41; Ga. L. 2003, p. 796, § 3; Ga. L. 2004, p. 631, § 40; Ga. L. 2005, p. 334, § 17-18/HB 501; Ga. L. 2011, p. 355, § 11/HB 269; Ga. L. 2014, p. 710, § 1-14/SB 298; Ga. L. 2015, p. 5, § 40/HB 90; Ga. L. 2015, p. 60, § 4-19/SB 100; Ga. L. 2015, p. 422, § 5-60/HB 310.)

**The 2015 amendments.** — The first 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, added a period at the end of subsection (a). The second 2015 amendment, effective July 1, 2015, added subsection (d). See editor's note for applicability. The third 2015 amendment, effective July 1, 2015, substituted "community supervision" for "probation" twice in subsection (b). See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60,

§ 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

Ga. L. 2015, p. 422, § 6-1/HB 310, not codified by the General Assembly, provides that: "This Act shall become effective July 1, 2015, and shall apply to sentences entered on or after such date."

#### **40-5-83. Establishment, approval, and operation of clinics and programs; out-of-state certificates of completion; instructor licenses; fees; submission of fingerprints by applicants.**

(a)(1) The commissioner shall establish criteria for the approval of driver improvement clinics. To be approved, a clinic shall provide and operate a defensive driving course. Clinics shall be composed of uniform education and training programs consisting of six hours of instruction designed for the rehabilitation of problem drivers. The commissioner shall establish standards and requirements concerning the contents of defensive driving courses, qualifications of instructors, attendance requirements for students, and examinations. Approved clinics shall charge a fee of \$95.00 for a defensive driving course, except that such clinics may charge different fees of their own choosing if the person is not enrolling in such course pursuant to court order or department requirement. No clinic shall be approved unless such clinic agrees in writing to allow the examination and

audit of the books, records, and financial statements of such clinic. Clinics may be operated by any individual, partnership, or corporation. Nothing in this paragraph shall be construed to affect in any way driving programs established for purposes of insurance premium reductions under the provisions of Code Section 33-9-42.

(1.1)(A) No driver improvement clinic shall be permitted to use, adopt, or conduct any business under any name that is like or deceptively similar to any name used by any other driver improvement clinic, Georgia company, or Georgia corporation registered with the Secretary of State. This subparagraph shall not prohibit the franchising or licensing of any part or all of the name of a driver improvement clinic by the owner or the rights thereof to another licensed driver improvement clinic.

(B) This paragraph shall not prohibit the franchising or licensing of any part or all of the name of a clinic by the owner of the rights therein to another licensed driver improvement clinic.

(2) The commissioner may issue a special license to the instructor of any licensed driver training school authorizing such instructor to teach a defensive driving course at a driver improvement clinic approved pursuant to this Code section if such instructor is qualified to teach a teen-age driver education course which consists of a minimum of 30 hours of classroom and six hours of behind-the-wheel training and such instructor certifies to the commissioner that he or she has provided at least 300 hours of behind-the-wheel training in a teen-age driver education course.

(b)(1) The commissioner shall be authorized to accept certificates of completion from all defensive driving, driving under the influence, and alcohol and drug programs, clinics, and courses approved by any other state, the District of Columbia, and territories and possessions of the United States, including military reservations, whereby driver improvement clinics, programs, and courses shall be approved for use by residents of this state, other states, the District of Columbia, and territories and possessions of the United States.

(2) Driver improvement clinics, programs, and courses outside of the State of Georgia shall not be required to comply with the provisions of subsection (a) of this Code section.

(3) Driving under the influence and alcohol and drug programs, clinics, and courses outside of the State of Georgia shall not be required to comply with the provisions of subsection (e) of this Code section; provided, however, that the department shall not accept certificates of completion from any such program, clinic, or course unless said program, clinic, or course has been certified by the department as substantially conforming, with respect to course

content, with the standards and requirements promulgated by the department under subsection (e) of this Code section. Certificates of completion from an out-of-state program, clinic, or course not so certified by the department may be accepted only for the purpose of permitting persons who are not residents of the State of Georgia to reinstate nonresident operating privileges.

(c) The commissioner shall be authorized to issue a special license to the instructor of any driver improvement clinic who is qualified to teach the alcohol and drug course prescribed in subsection (b) of Code Section 20-2-142. A driver improvement clinic shall offer such alcohol and drug course only through a qualified instructor and shall not charge a fee for such course of more than \$25.00. The commissioner shall be authorized to issue a special license to a licensed instructor of any driver training school to teach the alcohol and drug course prescribed in subsection (b) of Code Section 20-2-142 who is qualified to teach a teen-age driver education course, which course consists of a minimum of 30 hours of classroom and six hours of behind-the-wheel training. The alcohol and drug program may be included in the 30 hours of classroom training as part of a curriculum approved by the department. Any fee authorized by law for such a drug and alcohol course may be included in the tuition charge for a teen-age driver education course. Any text or workbook provided or required by the Department of Driver Services for such alcohol and drug course shall be provided by the department at the same fee as currently charged by the department to any public or private school, contractor, or appropriate representative currently teaching the program.

(d) Notwithstanding the provisions of any law or rule or regulation which prohibits any individual who was a probation officer or other official or employee of the probation division of the Department of Corrections on or before June, 30, 2015, or a spouse of such individual from owning, operating, instructing at, or being employed by a driver improvement clinic, any individual who was a probation officer or other official or employee of the probation division of the Department of Corrections on or before June 30, 2015, or a spouse of such individual who owns, operates, instructs at, or is employed by a driver improvement clinic shall remain qualified to own, operate, instruct at, or be employed by a driver improvement clinic and to engage in such activities. Any individual who is an employee of the Department of Community Supervision or a spouse of such individual who owns, operates, instructs at, or is employed by a driver improvement clinic on July 1, 2015, and who in all respects is and remains qualified to own, operate, instruct at, or be employed by a driver improvement clinic shall be expressly authorized to continue on and after June 1, 2015, to engage in such activities. No person who owns, operates, or is employed by a private company which has contracted to provide probation

services for misdemeanor cases shall be authorized to own, operate, be an instructor at, or be employed by a driver improvement clinic or a DUI Alcohol or Drug Use Risk Reduction Program.

(e)(1) The department is designated as the agency responsible for establishing criteria for the certification of DUI Alcohol or Drug Use Risk Reduction Programs. An applicant shall meet the certification criteria promulgated by the department through its standards and shall provide assessment component services and intervention component services. A certified DUI Alcohol or Drug Use Risk Reduction Program shall require that a risk assessment component be conducted prior to administering the intervention component of such program. A certified DUI Alcohol or Drug Use Risk Reduction Program may include a clinical evaluation component after an individual completes risk assessment and intervention services. Only clinical evaluators licensed by the Department of Behavioral Health and Developmental Disabilities shall be qualified to conduct clinical evaluations. The department is designated as the agency responsible for establishing rules and regulations concerning the contents and duration of the components of DUI Alcohol or Drug Use Risk Reduction Programs, qualifications of instructors, attendance requirements for students, examinations, and program evaluations. Qualified instructors shall be certified for periods of four years each, which may be renewed.

(2) Certified DUI Alcohol or Drug Use Risk Reduction Programs shall charge a fee of \$100.00 for the assessment component and \$235.00 for the intervention component. An additional fee for required student program materials shall be established by the department in such an amount as is reasonable and necessary to cover the cost of such materials.

(3) No DUI Alcohol or Drug Use Risk Reduction Program shall be certified unless such program agrees in writing to submit reports as required in the rules and regulations of the department and to allow the examination and audit of the books, records, and financial statements of such DUI Alcohol or Drug Use Risk Reduction Program by the department or its authorized agent.

(4) DUI Alcohol or Drug Use Risk Reduction Programs may be operated by any public, private, or governmental entity; provided, however, that, except as otherwise provided in this subsection, in any political subdivision in which a DUI Alcohol or Drug Use Risk Reduction Program is operated by a private entity, whether for profit or nonprofit, neither the local county board of health nor any other governmental entity shall fund any new programs in that area. Programs in existence prior to July 1, 1990, which are operated by local county boards of health or any other governmental entities shall

be authorized to continue operation. New programs may be started in areas where no private DUI Alcohol or Drug Use Risk Reduction Programs have been made available in the political subdivision.

(5) The Department of Corrections shall be authorized to operate DUI Alcohol or Drug Use Risk Reduction Programs in its facilities where offenders are not authorized to participate in such programs in the community, provided that such programs meet the certification criteria promulgated by the Department of Driver Services. All such programs operated by the Department of Corrections shall be exempt from all fee provisions established in this subsection specifically including the rebate of any fee for the costs of administration.

(6) No DUI Alcohol or Drug Use Risk Reduction Program shall be certified unless such program agrees in writing to pay to the state, for the costs of administration, a fee of \$30.00 for each offender assessed, provided that nothing in this Code section shall be construed to allow the department to retain any funds required by the Constitution to be paid into the state treasury; and provided, further, that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act," except Code Section 45-12-92, prior to expending any such miscellaneous funds.

(f)(1) Each applicant for certification to own or operate a driver improvement clinic shall submit at least one set of classifiable electronically recorded fingerprints to the department in accordance with the fingerprint system of identification established by the director of the Federal Bureau of Investigation. The department shall transmit the fingerprints to the Georgia Crime Information Center, which shall submit the fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and promptly conduct a search of state records based upon the fingerprints. After receiving the report from the Georgia Crime Information Center and the Federal Bureau of Investigation, the department shall determine whether the applicant may be certified.

(2) No applicant shall be certified unless he or she is a United States citizen, or if not a citizen, he or she presents federal documentation verified by the United States Department of Homeland Security to be valid documentary evidence of lawful presence in the United States under federal immigration law. (Code 1933, § 68D-104, enacted by Ga. L. 1978, p. 2302, § 1; Code 1981, § 40-5-83.1, enacted by Ga. L. 1983, p. 745, § 3; Ga. L. 1985, p. 409, § 1; Ga. L. 1985, p. 758, § 12; Code 1981, § 40-5-85.1, enacted by Ga. L. 1985, p. 758, § 20; Ga. L. 1986, p. 839, § 2; Ga. L. 1987, p. 431, § 1; Ga. L. 1990, p. 1154, § 7; Code 1981, § 40-5-83, as redesignated by Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 1140, § 2; Ga. L. 1992, p. 913, § 1; Ga. L. 1992, p. 2785, § 16; Ga. L. 1993, p. 91, § 40; Ga. L.

1993, p. 454, § 2; Ga. L. 1994, p. 1066, § 2; Ga. L. 1997, p. 143, § 40; Ga. L. 1999, p. 731, § 3; Ga. L. 2000, p. 951, § 5-43; Ga. L. 2003, p. 796, § 4; Ga. L. 2005, p. 334, § 17-20/HB 501; Ga. L. 2009, p. 65, § 6/SB 196; Ga. L. 2010, p. 932, § 17/HB 396; Ga. L. 2011, p. 355, § 12/HB 269; Ga. L. 2014, p. 710, §§ 1-16, 5-1/SB 298; Ga. L. 2015, p. 422, § 5-61/HB 310.)

**The 2015 amendment**, effective July 1, 2015, in subsection (d), in the first sentence, substituted “was a probation” for “is a probation” twice, inserted “on or before June 30, 2015,” twice substituted “shall remain” for “on June 1, 1985, and who in all respects is and remains”, and substituted “and” for “is expressly authorized to continue on and after June 1,

1985,”, and added the second sentence. See editor’s note for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 422, § 6-1/HB 310, not codified by the General Assembly, provides that: “This Act shall become effective July 1, 2015, and shall apply to sentences entered on or after such date.”

## ARTICLE 5

### IDENTIFICATION CARDS FOR PERSONS WITHOUT DRIVERS' LICENSES

#### 40-5-100. Department authorized to issue cards; contents; possession of more than one card prohibited; application for renewal; dissemination of information regarding voluntary programs.

(a) The department shall issue personal identification cards to all residents as defined in Code Section 40-5-1 who make application to the department in accordance with rules and regulations prescribed by the commissioner. Cards issued to applicants under 21 years of age shall contain the distinctive characteristics of drivers' licenses issued pursuant to Code Section 40-5-26. The identification card shall be similar in form but distinguishable in color from motor vehicle drivers' licenses and may contain a recent photograph of the applicant and include the following information:

- (1) Full legal name;
- (2) Address of residence;
- (3) Birth date;
- (4) Date identification card was issued;
- (5) Sex;
- (6) Height;
- (7) Weight;
- (8) Eye color;

- (9) Signature of person identified or facsimile thereof;
- (10) Designation of participation in an anatomical gift donation program when such person is eligible to make such gift pursuant to Code Section 44-5-142; and
- (11) Such other information or identification as required by the department; provided, however, that the department shall not require an applicant to submit or otherwise obtain from an applicant any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application.

(b) The identification card shall be valid for a period of five or eight years, at the option of the applicant, and shall bear the signatures of the commissioner and the Governor and shall bear an identification card number which shall not be the same as the social security number.

(c)(1) No person may possess more than one identification card issued pursuant to this Code section; provided, however, that this subsection shall not be construed to prevent a resident of this state who possesses a driver's license from also possessing an identification card issued under this article.

(2) Except as provided in paragraph (3) of this subsection, each applicant for an identification card shall surrender any identification card or driver's license previously issued by any other state and any identification card previously issued by this state.

(3)(A) Any noncitizen who is eligible for issuance of an identification card pursuant to the requirements of this chapter may be issued an identification card without surrendering any driver's license or identification card previously issued to him or her by any foreign jurisdiction. This exemption shall not apply to a person who is required to terminate any previously issued identification card pursuant to federal law.

(B) The department shall make a notation on the driving record of any person who retains a foreign identification card or driver's license, and this information shall be made available to law enforcement officers and agencies on such person's driving record through the Georgia Crime Information Center.

(4) Willful failure to surrender any such previous driver's license or personal identification card upon application for a new personal identification card will be considered an act of fraud and upon conviction be punished as provided for in Code Section 40-5-125.

(d) An application for identification card renewal may be submitted by:

(1) Personal appearance before the department; or  
(2) Subject to rules or regulations of the department which shall be consistent with considerations of public safety and efficiency of service to customers, means other than such personal appearance which may include without limitation by mail or electronically. The department may by such rules or regulations exempt persons renewing identification cards under this paragraph from the surrender requirement in this Code section.

(e)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) The department shall make available to procurement organizations or secure data centers maintained and managed at the direction of a procurement organization information provided for in Article 6 of Chapter 5 of Title 44, the "Georgia Revised Uniform Anatomical Gift Act," including the name, personal identification card number, date of birth, gender, and most recent address of any person who obtains an organ donor identification card; provided, however, that the gender information shall be made available only to a procurement organization or secure data center if such organization or center has sufficient funds to cover the associated costs of providing such information. Information so obtained by such organizations and centers shall be used for a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

(f)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding blindness and to address the need for blindness prevention screenings, treatments, and rehabilitation for the benefit of the citizens of Georgia.

(2) Each application form for issuance, reissuance, or renewal of a personal identification card under this Code section shall include language permitting the applicant to make a voluntary contribution of \$1.00 to be used for purposes of preventing blindness and preserving the sight of residents of this state. Any such voluntary contribution shall be made at the discretion of the applicant at the time of application in addition to payment of the personal identification card fee prescribed by the commissioner.

(3) Voluntary contributions made pursuant to this subsection shall be transmitted to the Department of Public Health for use thereby in

providing the blindness education, screening, and treatment program provided by Code Section 31-1-23. (Ga. L. 1973, p. 807, § 1; Ga. L. 1976, p. 1421, § 2; Ga. L. 1984, p. 1674, § 1; Ga. L. 1986, p. 395, § 1; Ga. L. 1988, p. 897, § 4; Ga. L. 1990, p. 1913, § 2; Ga. L. 1990, p. 2048, § 4; Ga. L. 1992, p. 2785, § 20; Ga. L. 1995, p. 920, § 4; Ga. L. 1996, p. 1250, § 7; Ga. L. 1997, p. 1443, § 2; Ga. L. 2000, p. 951, §§ 5-45, 5-46; Ga. L. 2004, p. 631, § 40; Ga. L. 2005, p. 334, § 17-23/HB 501; Ga. L. 2005, p. 1122, § 4/HB 577; Ga. L. 2008, p. 1154, § 5/SB 488; Ga. L. 2010, p. 932, § 18/HB 396; Ga. L. 2014, p. 710, § 7-1/SB 298; Ga. L. 2015, p. 60, § 4-20/SB 100.)

**The 2015 amendment**, effective July 1, 2015, deleted "color" preceding "photograph" near the end of subsection (a); deleted "and" at the end of paragraph (a)(9); added paragraph (a)(10); and redesignated former paragraph (a)(10) as present paragraph (a)(11); and added subsections (e) and (f). See editor's note for applicability.

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

## ARTICLE 6

### MISCELLANEOUS OFFENSES AND JURISDICTION OF OFFENSES

#### 40-5-121. Driving while license suspended or revoked.

(a) Except when a license has been revoked under Code Section 40-5-58 as a habitual violator, any person who drives a motor vehicle on any public highway of this state without being licensed as required by subsection (a) of Code Section 40-5-20 or at a time when his or her privilege to so drive is suspended, disqualified, or revoked shall be guilty of a misdemeanor for a first conviction thereof and, upon a first conviction thereof or plea of nolo contendere within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, shall be fingerprinted and shall be punished by imprisonment for not less than two days nor more than 12 months, and there may be imposed in addition thereto a fine of not less than \$500.00 nor more than \$1,000.00. Such fingerprints, taken upon conviction, shall be forwarded to the Georgia Crime Information Center where an identification number shall be assigned to the individual for the purpose of tracking any future violations by the same offender. For the second and third conviction within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo

contendere is accepted, such person shall be guilty of a high and aggravated misdemeanor and shall be punished by imprisonment for not less than ten days nor more than 12 months, and there may be imposed in addition thereto a fine of not less than \$1,000.00 nor more than \$2,500.00. For the fourth or subsequent conviction within five years, as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere is accepted, such person shall be guilty of a felony and shall be punished by imprisonment for not less than one year nor more than five years, and there may be imposed in addition thereto a fine of not less than \$2,500.00 nor more than \$5,000.00.

(b)(1) The department, upon receiving a record of the conviction of any person under this Code section upon a charge of driving a vehicle while the license of such person was suspended, disqualified, or revoked, including suspensions under subsection (e) of Code Section 40-5-75, shall extend the period of suspension or disqualification by six months. Upon the expiration of six months from the date on which the suspension or disqualification is extended and payment of the applicable reinstatement fee, the department shall reinstate the license. The reinstatement fee for a first such conviction within a five-year period shall be \$210.00 or \$200.00 if paid by mail. The reinstatement fee for a second such conviction within a five-year period shall be \$310.00 or \$300.00 if paid by mail. The reinstatement fee for a third or subsequent such conviction within a five-year period shall be \$410.00 or \$400.00 if paid by mail.

(2) The court shall be required to confiscate the license, if applicable, and attach it to the uniform citation and forward it to the department within ten days of conviction. The period of suspension or disqualification provided for in this Code section shall begin on the date the person is convicted of violating this Code section.

(c) For purposes of pleading nolo contendere, only one nolo contendere plea will be accepted to a charge of driving without being licensed or with a suspended or disqualified license within a five-year period as measured from date of arrest to date of arrest. All other nolo contendere pleas in this period will be considered convictions. For the purpose of imposing a sentence under this subsection, a plea of nolo contendere shall constitute a conviction. There shall be no limited driving permit available for a suspension or disqualification under this Code section.

(d) Notwithstanding the limits set forth in Code Section 40-5-124 and in any municipal charter, any municipal court of any municipality shall be authorized to impose the punishment for a misdemeanor or misdemeanor of a high and aggravated nature as applicable and

provided for in this Code section upon a conviction of a nonfelony charge of violating this Code section or upon conviction of violating any ordinance adopting the provisions of this Code section. (Code 1933, § 68B-402, enacted by Ga. L. 1975, p. 1008, § 1; Ga. L. 1979, p. 1049, § 1; Ga. L. 1983, p. 1000, § 10; Ga. L. 1984, p. 22, § 40; Ga. L. 1988, p. 897, § 5; Ga. L. 1989, p. 350, § 1; Ga. L. 1989, p. 519, § 15; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 1886, § 5; Ga. L. 1992, p. 1128, § 1; Ga. L. 1999, p. 391, § 6; Ga. L. 2000, p. 951, § 5-49; Ga. L. 2004, p. 631, § 40; Ga. L. 2006, p. 449, § 12/HB 1253; Ga. L. 2008, p. 1137, § 3/SB 350; Ga. L. 2009, p. 65, § 3/SB 196; Ga. L. 2009, p. 679, § 9/HB 160; Ga. L. 2015, p. 60, § 4-21/SB 100.)

**The 2015 amendment**, effective July 1, 2015, substituted “subsection (e)” for “subsection (f)” in the middle of the first sentence of paragraph (b)(1). See editor’s note for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General

Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

#### 40-5-124. Jurisdiction of offenses.

(a) Any person charged with an offense under this chapter may be tried in any municipal court of any municipality if the offense occurred within the corporate limits of such municipality. Such courts are granted the jurisdiction to try and dispose of such cases. The jurisdiction of such courts shall be concurrent with the jurisdiction of any other courts within the county having jurisdiction to try and dispose of such cases. Any fines and bond forfeitures arising from the prosecution of such cases shall be retained by the municipality and shall be paid into the treasury of such municipality. Any person charged with an offense under this chapter shall be entitled to request to have the case against him transferred to the court having general misdemeanor jurisdiction in the county wherein the alleged offense occurred.

(b) Nothing in this Code section shall be construed to give any municipality the right to impose a fine or punish by imprisonment in excess of the limits as set forth in the municipality’s charter. (Code 1933, § 68B-405, enacted by Ga. L. 1977, p. 1038, § 1; Ga. L. 1987, p. 3, § 40; Ga. L. 1990, p. 2048, § 4; Ga. L. 2015, p. 693, § 3-32/HB 233.)

**The 2015 amendment**, effective July 1, 2015, substituted “fines and bond forfeitures” for “fines and forfeitures” at the beginning of the fourth sentence of subsection (a). See editor’s notes for applicability.

§ 4-1/HB 233, not codified by the General Assembly, provides that this Act “shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure.”

**Editor’s notes.** — Ga. L. 2015, p. 693,

**40-5-125. Fraudulent driver's license or identification card; false statements or commission of fraud in applications; criminal violation.**

(a) It is a misdemeanor for any person to:

(1) Lend his or her driver's license or identification card to any other person or permit knowingly the use thereof by another person; or

(2) Display or represent as his or her own any driver's license or identification card not issued to him or her.

(b) Any person who uses a false or fictitious name or gives a false or fictitious address in an application for a driver's license provided for by this chapter shall be guilty of a violation of Code Section 16-10-20.

(c) Any person who knowingly makes any false statement, conceals a material fact, or otherwise commits a fraud during the driver's license examination for a driver's license, including a commercial driver's license or commercial driver's instruction permit, shall be guilty of a violation of Code Section 16-10-20. (Code 1981, § 40-5-125, enacted by Ga. L. 1989, p. 519, § 16; Ga. L. 1990, p. 2048, § 4; Ga. L. 1996, p. 1250, § 8; Ga. L. 2000, p. 951, § 5-50; Ga. L. 2002, p. 551, § 6; Ga. L. 2015, p. 1370, § 1/HB 118.)

**The 2015 amendment**, effective May 12, 2015, substituted “uses a false or fictitious name or gives a false or fictitious

address” for “knowingly makes any false statement” in the middle of subsection (b); and added subsection (c).

## ARTICLE 7

### COMMERCIAL DRIVERS' LICENSES

**40-5-142. Definitions.**

As used in this article, the term:

(1) “Alcohol” means:

(A) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(B) Wine of not less than one-half of 1 percent of alcohol by volume;

(C) Distilled spirits which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all

dilutions and mixtures thereof from whatever source or by whatever process produced; or

(D) Any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(A) The number of grams of alcohol per 100 milliliters of blood;

(B) The number of grams of alcohol per 210 liters of breath; or

(C) The number of grams of alcohol per 67 milliliters of urine.

(3) "Commerce" means:

(A) Trade, traffic, and transportation within the jurisdiction of the United States between locations in a state and between a location in a state and a location outside such state including a location outside the United States; and

(B) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A) of this paragraph.

(4) "Commercial Driver License Information System" (CDLIS) means the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986, Title XII, Public Law 99-570, to serve as a clearing-house for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued pursuant to subsection (c) of Code Section 40-5-147.

(6) "Commercial driver's license" (CDL) means a license issued in accordance with the requirements of this article to an individual which authorizes the individual to drive a class of commercial motor vehicle.

(7) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:

(A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation;

(B) If the vehicle is designed to transport 16 or more passengers, including the driver; or

(C) If the vehicle is transporting hazardous materials as designated under 49 U.S.C. Section 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R.

Part 172, subpart F or is transporting any quantity of a material listed as a select agent or toxin in Title 42 C.F.R. Part 73; provided, however, that for the purposes of this article, no agricultural vehicle, commercial vehicle operated by military personnel for military purposes, recreational vehicle, or fire-fighting or emergency equipment vehicle shall be considered a commercial motor vehicle. As used in this paragraph, the term "fire-fighting or emergency equipment vehicle" means an authorized emergency vehicle as defined in paragraph (5) of Code Section 40-1-1; provided, however, that the vehicle must be equipped with audible and visible signals and shall be subject to traffic regulations in accordance with the requirements of Code Section 40-6-6. As used in this paragraph, the term "agricultural vehicle" means a farm vehicle which is controlled and operated by a farmer, including operation by employees or family members; used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and operated within 150 miles of such person's farm; which vehicle is not used in the operations of a common or contract carrier. Any other waiver by the Federal Motor Carrier Safety Administration pursuant to Federal Law 49 C.F.R. Parts 383 and 384 of the United States Department of Transportation shall supersede state law in authorizing the Department of Driver Services to exempt said classes.

(8) "Controlled substance" means any substance so defined under Code Section 16-13-21 and includes all substances listed in Schedules I through V of 21 C.F.R. Part 1308, as they may be revised from time to time.

(9) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(10) "Disqualification" means any of the following:

(A) The suspension, revocation, or cancellation of a commercial driver's license by any state or jurisdiction of issuance;

(B) The withdrawal of a person's privilege to drive a commercial motor vehicle by any state or by any other jurisdiction as the result of a violation of any state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or

(C) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle.

(11) "Drive" means to operate or be in actual physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of Code Sections 40-5-151 and 40-5-152, "drive" includes operation or actual physical control of a motor vehicle anywhere in this state, in any other state, or in any foreign jurisdiction.

(12) "Driver" means any person who drives, operates, or is in actual physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic or who is required to hold a commercial driver's license.

(13) "Driver's license" means a license issued by a state to any individual which authorizes the individual to drive a motor vehicle.

(13.1) "Driving a vehicle under the influence" means committing any one or more of the following acts while a person is driving or in actual physical control of a moving commercial or noncommercial vehicle:

(A) Driving under the influence, as prescribed by Code Section 40-6-391 or any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction; or

(B) Refusal to submit to state administered chemical testing when requested to do so by a law enforcement officer.

(14) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle on its behalf.

(14.1) "Fatality" means the death of a person as a result of a motor vehicle crash.

(15) "Felony" means any offense under state or federal law that is punishable by death, by imprisonment for life, or by imprisonment for more than 12 months.

(16) "Foreign jurisdiction" means any jurisdiction other than a state of the United States.

(17) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The gross vehicle weight rating of a combination (articulated) vehicle, commonly referred to as the

“gross combination weight rating” (GCWR), is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units. In the absence of a value specified for the towed unit or units by the manufacturer or manufacturers, the gross vehicle weight rating of a combination (articulated) vehicle is the gross vehicle weight rating of the power unit plus the total weight of the towed unit or units, including the loads on them.

(18) “Hazardous materials” means any material that has been designated as hazardous under 49 U.S.C. Section 5103 and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F or any quantity of a material listed as a select agent or toxin in Title 42 C.F.R. Part 73.

(18.1) “Imminent hazard” means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(18.2) “Major traffic violation” means a conviction of any of the following offenses or a conviction of any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless otherwise specified, a noncommercial motor vehicle:

(A) Driving a vehicle under the influence in violation of Code Section 40-6-391;

(B) Hit and run or leaving the scene of an accident in violation of Code Section 40-6-270, failure to report striking an unattended vehicle in violation of Code Section 40-6-271, failure to report striking a fixed object in violation of Code Section 40-6-272, or failure to report an accident in violation of Code Section 40-6-273;

(C) Except as provided in subsection (b) of Code Section 40-5-151, any felony in the commission of which a motor vehicle is used;

(D) Driving a commercial motor vehicle while the person’s commercial driver’s license or commercial driving privilege is revoked, suspended, canceled, or disqualified;

(E) Homicide by vehicle in violation of Code Section 40-6-393;

(F) Racing on highways or streets in violation of Code Section 40-6-186;

(G) Using a motor vehicle in fleeing or attempting to elude an officer in violation of Code Section 40-6-395;

(H) Fraudulent or fictitious use of or application for a license as provided in Code Section 40-5-120 or subsection (c) of Code Section 40-5-125;

(I) Operating a motor vehicle with a revoked, canceled, or suspended registration in violation of Code Section 40-6-15;

(J) Violating Code Sections 16-8-2 through 16-8-9, if the property that was the subject of the theft was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto or the cargo being transported therein or thereon, as set forth in paragraph (8) of subsection (a) of Code Section 16-8-12; or

(K) Refusing to submit to a state administered chemical test requested by a law enforcement officer pursuant to Code Section 40-5-55.

(19) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(19.1) "Noncommercial motor vehicle" means a motor vehicle or combination of vehicles not defined by the term "commercial motor vehicle" in this Code section or in the regulations of the department for the purpose of licensure.

(20) "Nonresident commercial driver's license" means a commercial driver's license issued by a state to any individual who resides in a foreign jurisdiction.

(21) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(21.1) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school sponsored events. The term does not include a bus used as a common carrier.

(22) "Serious traffic violation" means conviction of any of the following offenses or a conviction of any law or ordinance equivalent thereto in this state, in any other state, or in any foreign jurisdiction, when operating either a commercial motor vehicle or, unless otherwise specified, a noncommercial motor vehicle:

(A) Speeding 15 or more miles per hour above the posted speed limit;

(B) Reckless driving;

(C) Following another vehicle too closely;

- (D) Improper or erratic lane change, including failure to signal a lane change;
- (E) A violation, arising in connection with a fatal crash, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations, and excluding homicide by vehicle as defined in Code Section 40-6-393;
- (F) A railroad grade crossing violation in a noncommercial motor vehicle;
- (G) Driving a commercial motor vehicle without obtaining a commercial driver's license;
- (H) Driving a commercial motor vehicle without a commercial driver's license in the driver's immediate possession, and excluding such violations when the person's commercial driver's license or commercial driving privilege is suspended, revoked, canceled, or disqualified;
- (I) Driving a commercial motor vehicle without a commercial driver's license of the proper class and endorsements for the specific vehicle being operated or for the passengers or type of cargo transported; or
- (J) Use of a wireless telecommunications device in violation of Code Section 40-6-241.2 while driving a commercial motor vehicle.

(23) "State" means a state of the United States and the District of Columbia.

(24) "Tank vehicle" means any commercial motor vehicle designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by federal law. However, the term "tank vehicle" shall not include a portable tank having a rated capacity under 1,000 gallons.

(25) "United States" means the 50 states and the District of Columbia. (Code 1981, § 40-5-142, enacted by Ga. L. 1989, p. 519, § 1; Ga. L. 1990, p. 8, § 40; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 618, § 1; Ga. L. 1992, p. 6, § 40; Ga. L. 1994, p. 1058, § 1; Ga. L. 2000, p. 951, § 5-51; Ga. L. 2002, p. 1378, § 4; Ga. L. 2003, p. 484, § 3; Ga. L. 2004, p. 631, § 40; Ga. L. 2005, p. 334, § 17-22/HB 501; Ga. L. 2006, p. 449, § 13/HB 1253; Ga. L. 2007, p. 117, § 2/HB 419; Ga. L. 2008, p. 324, § 40/SB 455; Ga. L. 2011, p. 355, § 15/HB 269; Ga. L. 2015, p. 1370, § 2/HB 118.)

**The 2015 amendment**, effective May 12, 2015, inserted "subsection (c) of Code Section" near the end of subparagraph (18.2)(H).

**40-5-147. Requirements for issuance of license or instruction permit; administration of skills test by third party; waiver or exemption; disqualification and notice.**

(a)(1) Except as provided in Code Section 40-5-148, no person may be issued a commercial driver's license unless that person is a resident of this state, is at least 18 years of age, has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 C.F.R. Part 383, subparts G and H, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Title XII of Public Law 99-570, in addition to any other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the department in English only.

(2) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution or a department, agency, or instrumentality of a local government, to administer the skills test specified by this Code section, provided that:

(A) The test is the same which would otherwise be administered by the state;

(B) The third party has entered into an agreement with the state which complies with the requirements set forth in 49 C.F.R. Part 383.75;

(C) The third party complies with all other requirements set by the department by regulations; and

(D) The third party possesses and maintains a surety bond in an amount to be set by the department through regulations. Such amount shall be sufficient to pay for retesting of drivers if required due to examiners engaging in fraudulent activities related to the skills test.

(3) Only the department or the American Association of Motor Vehicle Administrators shall certify examiners to administer the road skills test specified by this Code section. Such certification shall include the performance of a national criminal history background check in accordance with Code Section 35-3-34.2 and the passage of an initial training course that provides the examiner with a fundamental understanding of the objectives of the skills test for driving a commercial vehicle. A certified examiner shall complete a refresher training course every four years in order to retain certification.

Certification shall be revoked for any examiner who fails to complete the refresher course or any other examination deemed appropriate for certification by the department through rules or regulations.

(4) No person who trains or instructs an applicant shall be eligible to administer the skills test required by this Code section to such applicant.

(b) The department may waive the skills test specified in this Code section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. Part 383.77.

(c)(1) A commercial driver's instruction permit may be issued to any individual who holds a valid noncommercial Class C license or has passed all required tests for the operation of a noncommercial Class C vehicle and is 18 years of age.

(2) Before issuing a commercial driver's instruction permit, the department shall obtain the driving record of an applicant through the Commercial Driver's License Information System, through the National Driver Register (NDR), and from each state in which the applicant has been licensed.

(3) An applicant for the commercial driver's instruction permit must pass the vision test and the knowledge and skills tests for the type of vehicle he or she intends to operate along with any knowledge and skills test required for any desired endorsements.

(4) The commercial driver's instruction permit may not be issued for a period to exceed 180 days and may be renewed one time for an additional 180 days. Upon the expiration of the second 180 day term, if applicable, the commercial driver's instruction permit holder shall upgrade to a commercial driver's license or submit a new application, pay the required fees, and retake the required knowledge and skills tests to obtain a commercial driver's instruction permit. The holder of a commercial driver's instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the class of vehicle being operated, along with all required endorsements and restrictions, who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

(5) The department shall issue a commercial driver's instruction permit to a qualified applicant prior to the issuance of any endorsement which requires the administration of a commercial driver's license skills test or prior to the removal of any restrictions.

(6) No commercial driver's license shall be issued until an applicant has first obtained a commercial driver's instruction permit. No skills test required for the issuance of a commercial driver's license

shall be given until 14 days have expired from the issuance of a commercial driver's instruction permit.

(d)(1) Commercial drivers' instruction permits may be issued with the endorsements and restrictions enumerated in 49 C.F.R. Part 383.153(b).

(2) Commercial drivers' licenses may be issued with the endorsements and restrictions enumerated in 49 C.F.R. Part 383.153(a).

(e)(1) A commercial driver's license or commercial driver's instruction permit shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle or while the person's driver's license or driving privilege is suspended, revoked, or canceled in this or any other licensing jurisdiction; nor may a driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all driver's licenses issued by any other state, which shall be returned to the issuing state or states for cancellation.

(2) The department shall obtain the driving record of any person who applies for a commercial driver's license or commercial driver's instruction permit from any other states in which he or she has been licensed or convicted. Upon receipt of conviction information for such a person, said convictions shall become part of the person's driving record in the State of Georgia as provided in Code Section 40-5-2. The department shall review each such person's prior driving record and impose any commercial driving disqualification to which such person is subject that was not imposed by another jurisdiction as required under federal law.

(f)(1) Any person who violates subsection (b) of Code Section 40-5-125 shall be disqualified from obtaining a commercial driver's license or commercial driver's instruction permit for a period of not less than 60 days.

(2) Any person who violates subsection (c) of Code Section 40-5-125 shall be disqualified from driving a commercial motor vehicle and reapplying for a commercial driver's license or commercial driver's instruction permit for a period of not less than one year.

(3) The department shall notify the holder of a commercial driver's license or commercial driver's instruction permit through first-class mail if the department suspects a person has committed a violation of subsection (b) or (c) of Code Section 40-5-125, but no conviction for such offenses has been entered, or if the department has received credible information that a person's examination results may have been compromised due to fraud by either the applicant or a third party. Such notice shall include a statement regarding the specific

allegations of suspected fraud, including the identification of the credible source if applicable, and that such person is required to retake the skills test or knowledge test or both. Within 30 days of receiving notification from the department that retesting is necessary, the affected commercial driver's instruction permit holder or commercial driver's license holder shall make an appointment or otherwise schedule to take the next available test. If the commercial driver's instruction permit holder or commercial driver's license holder fails to make an appointment within 30 days, the department shall disqualify such person from obtaining a commercial driver's instruction permit or commercial driver's license. If the commercial driver's instruction permit holder or commercial driver's license holder either fails the knowledge or skills test or does not take the test, the department shall disqualify such person from obtaining a commercial driver's instruction permit or commercial driver's license. If a commercial driver's instruction permit holder or commercial driver's license holder has been disqualified from obtaining a commercial driver's instruction permit or commercial driver's license, he or she shall reapply for a commercial driver's instruction permit or commercial driver's license under department procedures applicable to all commercial driver's instruction permit and commercial driver's license applicants in order to operate a commercial motor vehicle.

(g) The department is authorized to promulgate rules necessary to grant a waiver or exemption of the physical requirements for a commercial driver's license or a commercial driver's instruction permit in 49 C.F.R. Part 391, Subpart E; provided, however, that the person who is applying for a commercial driver's license or a commercial driver's instruction permit or who has previously been issued a commercial driver's license and who is granted the waiver or exemption shall only be authorized to drive a commercial motor vehicle in this state. Notwithstanding this subsection, the department shall not grant any type of waiver or exemption of said physical requirements unless such type of waiver or exemption has previously been granted by the Federal Motor Carrier Safety Administration. (Code 1981, § 40-5-147, enacted by Ga. L. 1989, p. 519, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 618, § 2; Ga. L. 2000, p. 951, § 5-53; Ga. L. 2006, p. 449, § 15/HB 1253; Ga. L. 2007, p. 117, § 3/HB 419; Ga. L. 2008, p. 171, § 9/HB 1111; Ga. L. 2015, p. 1370, § 3/HB 118.)

**The 2015 amendment**, effective May 12, 2015, in paragraph (a)(2), deleted "and" at the end of subparagraph (a)(2)(B), substituted ";" and" for a period at the end of subparagraph (a)(2)(C), and added subparagraph (a)(2)(D); added paragraphs (a)(3) and (a)(4); in subsection (c), added paragraph (c)(2), redesignated former

paragraphs (c)(2) and (c)(3) as present paragraphs (c)(3) and (c)(4), respectively, rewrote paragraphs (c)(3) and (c)(4), and added paragraphs (c)(5) and (c)(6); added subsection (d); redesignated former subsections (d) and (e) as present subsections (e) and (g), respectively; deleted "license or licenses" preceding "shall be returned"

near the end of present paragraph (e)(1); inserted "or commercial driver's instruction permit" in the first sentence of present paragraph (e)(2); and added subsection (f).

**40-5-150. Contents of license; classifications; endorsements and restrictions; information to be obtained before issuance; notice of issuance; expiration of license; renewal.**

(a) The commercial driver's license shall be marked "Commercial Driver's License" or "CDL" and shall be, to the maximum extent practicable, tamperproof, and shall include, but not be limited to, the following information:

- (1) The full legal name and residential address of the person;
- (2) The person's photograph;
- (3) A physical description of the person, including sex, height, weight, and eye color;
- (4) Full date of birth;
- (5) The license number or identifier assigned by the department;
- (6) The person's signature;
- (7) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive, together with any endorsements or restrictions;
- (8) The name of this state; and
- (9) The dates between which the license is valid.

(b) Commercial driver's licenses may be issued with the following classifications:

- (1) Class A — Any combination of vehicles with a gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
- (2) Class B — Any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating;
- (3) Class C — Any single vehicle with a gross vehicle weight rating of less than 26,001 pounds, any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of 10,000 pounds, or any such vehicle towing a vehicle with a gross vehicle weight rating in excess of 10,000 pounds, provided that the combination of vehicles has a gross combined vehicle weight rating less than 26,001 pounds.

This classification shall apply to vehicles designed to transport 16 or more passengers, including the driver, and vehicles used in the transportation of hazardous materials which require the vehicles to be placarded under 49 C.F.R. Part 172, subpart F;

(4) Class M — A motorcycle as defined in Code Section 40-1-1; and

(5) Class P — A commercial driver's instruction permit used in conjunction with the commercial driver's instruction permit vehicle classification.

(c) Commercial driver's licenses may be issued with the following endorsements and restrictions:

(1) "H" — Authorizes the driver to drive a vehicle transporting hazardous materials;

(2) "L" — Restricts the driver to vehicles not equipped with air brakes;

(3) "T" — Authorizes driving double and triple trailers;

(4) "P" — Authorizes driving vehicles carrying 16 or more passengers, including the driver, but does not authorize the driver to drive a school bus;

(5) "N" — Authorizes driving tank vehicles;

(5.1) "S" — Authorizes the driver to drive a school bus; and

(6) "X" — Represents a combination of hazardous materials and tank vehicle endorsements.

The fee for Classes A, B, C, M, and P licenses and for the endorsements and restrictions shall be as provided in Code Section 40-5-25.

(d) The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. No person shall drive a vehicle which requires an endorsement unless the proper endorsement appears on the driver's license.

(e) Before issuing a commercial driver's license, the department shall obtain driving record information through the Commercial Driver License Information System, through the National Driver Register (NDR), and from each state in which the applicant has been licensed.

(f) Within ten days after issuing a commercial driver's license, the department shall notify the Commercial Driver License Information System of that fact and provide all information required to ensure identification of the licensee.

(g) Except as provided for in Code Section 40-5-21.1, the commercial driver's license shall expire on the licensee's birthdate in the fifth year following the issuance of such license.

(h) When applying for renewal of a commercial driver's license, the applicant shall complete the application form required by subsection (a) of Code Section 40-5-149, providing updated information and required medical certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed.

(i)(1) Before issuing, renewing, upgrading, or transferring a commercial driver's license with a hazardous materials endorsement, the department shall obtain a Transportation Security Administration determination that the individual does not pose a security risk warranting denial of the endorsement. The department shall promulgate rules and regulations as necessary to implement this subsection.

(2) If, after issuing a commercial driver's license bearing a hazardous materials endorsement, the department receives notification that the Transportation Security Administration has determined that the holder thereof poses a security risk, it shall cancel the commercial driver's license. The department may issue a new commercial driver's license without a hazardous materials endorsement to said licensee upon surrender of the license bearing the cancelled endorsement.

(3) If a person to whom the department previously issued a commercial driver's license with a hazardous materials endorsement has provided all of the required information to the Transportation Security Administration for the completion of a security threat assessment, but the Transportation Security Administration has not provided a Determination of No Security Threat or a Final Determination of Threat Assessment before the expiration date of said commercial driver's license, the department may renew the commercial driver's license for a period of 90 days if the licensee wishes to retain the hazardous materials endorsement. Notwithstanding the foregoing, the person's commercial driver's license may be renewed for the full renewal period if the licensee wishes to drop the hazardous materials endorsement.

(4) If a person to whom another state previously issued a commercial driver's license with a hazardous materials endorsement applies prior to the expiration thereof to transfer said license, the department may issue a temporary commercial driver's license with a hazardous materials endorsement valid for a period of 90 days upon the person's successful completion of all other statutory requirements. It shall be a prerequisite to the issuance of such a temporary license that the person has provided all of the required information to

the Transportation Security Administration for the completion of a security threat assessment, but the Transportation Security Administration has not provided a Determination of No Security Threat or a Final Determination of Threat Assessment prior to the expiration date of the person's commercial driver's license issued by the previous state. (Code 1981, § 40-5-150, enacted by Ga. L. 1989, p. 519, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 1994, p. 97, § 40; Ga. L. 1996, p. 1250, § 9; Ga. L. 1997, p. 1443, § 4; Ga. L. 2000, p. 951, §§ 5-57, 5-58; Ga. L. 2003, p. 484, § 5; Ga. L. 2005, p. 854, § 2/SB 273; Ga. L. 2006, p. 449, §§ 17, 18/HB 1253; Ga. L. 2007, p. 117, § 4/HB 419; Ga. L. 2008, p. 171, § 11/HB 1111; Ga. L. 2014, p. 710, § 7-2/SB 298; Ga. L. 2015, p. 60, § 4-22/SB 100.)

**The 2015 amendment**, effective July 1, 2015, deleted "color" preceding "photograph" in paragraph (a)(2).

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides that: "Section 4-9 of

Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

#### **40-5-151. Disqualification from driving; action required after suspending, revoking, or canceling license or nonresident privileges.**

(a) Any person is disqualified from driving a commercial vehicle for a period of not less than 60 days if convicted of a first violation of subsection (b) of Code Section 40-5-125.

(a.1) Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of a major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142.

(b) Any person is disqualified from driving a commercial motor vehicle for a period of three years if convicted of a first violation of using a commercial motor vehicle in the commission of a felony or a major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142, provided that the vehicle being operated or used in connection with such violation or commission of such felony is transporting a hazardous material required to be placarded under Section 105 of the Hazardous Materials Transportation Act, 49 U.S.C. app. 1804.

(c) Any person is disqualified from driving a commercial motor vehicle for life if convicted of a second or subsequent major traffic violation as defined in paragraph (18.2) of Code Section 40-5-142 or any combination of such violations arising from two or more separate incidents.

(d) The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under

subsection (c) of this Code section may be reduced to a period of not less than ten years. The department is not authorized to make any other reduction in a term of disqualification or to issue a limited or other permit or license that would allow the operation of a commercial motor vehicle during the term of disqualification mandated by this Code section.

(e) Notwithstanding the provisions of subsection (d) of this Code section, any person is disqualified from driving a commercial motor vehicle for life who knowingly uses a motor vehicle in the commission of any felony involving the manufacture, distribution, cultivation, sale, transfer of, trafficking in, or dispensing of a controlled substance or marijuana, or possession with intent to manufacture, distribute, cultivate, sell, transfer, traffic in, or dispense a controlled substance or marijuana.

(f) Any person is disqualified from driving a commercial motor vehicle for a period of:

(1) Not less than 60 days if convicted of two serious traffic violations as defined in paragraph (22) of Code Section 40-5-142 arising from separate incidents occurring within a three-year period as measured from the dates of arrests for which convictions were obtained; or

(2) Not less than 120 days if convicted of a third or subsequent serious traffic violation as defined in paragraph (22) of Code Section 40-5-142 arising from separate incidents occurring within a three-year period as measured from the dates of arrests for which convictions were obtained.

(g)(1) Any person is disqualified from driving a commercial motor vehicle based on the following violations of out-of-service orders:

(A) First violation — a driver who is convicted of a first violation of an out-of-service order is disqualified for a period of not less than 180 days and not more than one year;

(B) Second violation — a driver who is convicted of two violations of out-of-service orders in separate incidents is disqualified for a period of not less than two years and not more than five years; and

(C) Third or subsequent violation — a driver who is convicted of three or more violations of out-of-service orders in separate incidents is disqualified for a period of not less than three years and not more than five years.

(2) Whenever the operator of a commercial motor vehicle is issued an out-of-service order, a copy of such order shall be issued to the

operator of the commercial motor vehicle, the operator of the commercial motor vehicle's employer, and a copy or notice of such out-of-service order shall be provided to the department. The form of such out-of-service order, the procedures for notifying the department upon the issuance of such an order, and other matters relative to the issuance of out-of-service orders and violations thereof shall be provided in rules and regulations promulgated by the commissioner.

(3) Any person is disqualified for a period of not less than 180 days nor more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded under Section 105 of the Hazardous Materials Transportation Act, 49 U.S.C. app. 1804, or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if, during any ten-year period, the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under Section 105 of the Hazardous Materials Transportation Act, 49 U.S.C. app. 1804, or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver.

(4) In addition to any other penalty imposed pursuant to this article, any driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than \$2,500.00 for a first offense and not less than \$5,000.00 for a second or subsequent offense.

(h) After suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action within ten days. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state which issued the commercial driver's license within ten days.

(i) Any person is disqualified from driving a commercial motor vehicle for a period of not less than 60 consecutive days if it is determined, in a check of an applicant's license status and record prior to issuing a commercial driver's instruction permit or commercial driver's license or at any time after the commercial driver's instruction permit or commercial driver's license is issued, that the applicant has falsified information on his or her application or any related filing.

(j)(1) Any person is disqualified from driving a commercial vehicle for a period of not less than 30 days if the department receives notification from the Federal Motor Carrier Safety Administration that the person poses an imminent hazard.

(2) If the Federal Motor Carrier Safety Administration notifies the department that a person's driving constitutes an imminent hazard and imposes a disqualification greater than 30 days, the person shall be disqualified from driving a commercial vehicle for the period designated by the Federal Motor Carrier Safety Administration, not to exceed one year.

(k)(1) Any person is disqualified from operating a commercial motor vehicle if convicted of any of the following railroad grade crossing offenses while operating a commercial motor vehicle:

- (A) Failing to slow down and check the tracks are clear of an approaching train before proceeding;
- (B) Failing to stop before reaching the crossing if the tracks are not clear;
- (C) Failing to stop before driving onto the crossing;
- (D) Failing to leave sufficient space to drive completely through a railroad crossing without stopping;
- (E) Failing to obey a traffic-control device or the directions of an enforcement official at a railroad crossing; or
- (F) Failing to negotiate a crossing because of insufficient under-carriage clearance.

(2)(A) Upon a first conviction for an offense listed in paragraph (1) of this subsection, the period of disqualification shall be 60 days.

(B) Upon a second conviction within a three-year period for an offense listed in paragraph (1) of this subsection arising from a separate incident within a three-year period, the period of disqualification shall be 120 days.

(C) Upon a third or subsequent conviction within a three-year period for an offense listed in paragraph (1) of this subsection arising from a separate incident, the period of disqualification shall be one year.

(l)(1) All disqualifications as provided for in subsection (f) of this Code section shall become effective upon the date that the department processes the citation or conviction, provided that no such disqualification is in effect; if such disqualification is in effect the subsequent disqualification shall not take effect until the current disqualification expires.

(2) Notwithstanding paragraph (1) of this subsection, any other disqualification as provided for in this Code section shall become effective upon the date that the department processes the citation or

conviction and may run concurrently to any other disqualifications in effect.

(m) All disqualifications provided for in this Code section shall be imposed based on offenses in state law or on offenses of any laws or ordinances equivalent thereto in this state, in any other state, or in any foreign jurisdiction. (Code 1981, § 40-5-151, enacted by Ga. L. 1989, p. 519, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 1991, p. 618, § 3; Ga. L. 1992, p. 2785, § 21; Ga. L. 1995, p. 229, § .5; Ga. L. 2000, p. 951, § 5-59; Ga. L. 2002, p. 1378, § 5; Ga. L. 2003, p. 484, § 6; Ga. L. 2004, p. 631, § 40; Ga. L. 2006, p. 329, § 3/HB 1275; Ga. L. 2006, p. 449, § 19/HB 1253; Ga. L. 2007, p. 47, § 40/SB 103; Ga. L. 2007, p. 117, § 5/HB 419; Ga. L. 2008, p. 171, § 12/HB 1111; Ga. L. 2008, p. 324, § 40/SB 455; Ga. L. 2015, p. 1370, § 4/HB 118.)

**The 2015 amendment**, effective May 12, 2015, added subsection (a); redesignated former subsection (a) as present subsection (a.1); and, in subsection (i),

inserted “consecutive” and inserted “commercial driver’s instruction permit or” twice.

## 40-5-159. Violations.

(a) Any person who drives a commercial motor vehicle while in violation of the provisions of Code Section 40-5-143 or any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of the provisions of subsection (b) of Code Section 40-5-145 shall be guilty of a felony and, upon conviction thereof, shall be punished as follows:

(1) Except as provided for in subsections (d) and (e) of this Code section, by a civil penalty of \$2,500.00 for each offense; and

(2) By a fine of \$5,000.00, imprisonment for not more than 90 days, or both, for each offense.

(b) Any employer who reports fraudulent information to the department regarding an employee’s employment or experience as required under 49 C.F.R. Part 383 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500.00.

(c) Any person who drives a commercial motor vehicle while in violation of the provisions mandated under Code Section 40-5-146 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500.00.

(d) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of any federal, state, or local law or regulation pertaining to an out-of-service order shall be subject to a civil penalty in an amount not less than \$2,750.00 and not to exceed \$25,000.00.

(e) Any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of any federal, state, or local law or regulation pertaining to railroad grade crossings shall be subject to a civil penalty not to exceed \$10,000.00.

(f) Any person who drives a commercial motor vehicle while in violation of the provisions mandated under Code Section 40-6-241.2 shall be subject to a civil penalty not to exceed \$2,750.00 in addition to any criminal fines applicable to such violation. Any employer who knowingly allows, requires, permits, or authorizes a driver to drive a commercial motor vehicle in violation of Code Section 40-6-241.2 shall be subject to a civil penalty not to exceed \$11,000.00. (Code 1981, § 40-5-159, enacted by Ga. L. 1989, p. 519, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 2000, p. 951, § 5-65; Ga. L. 2003, p. 484, § 8; Ga. L. 2006, p. 449, § 20/HB 1253; Ga. L. 2007, p. 117, § 6/HB 419; Ga. L. 2008, p. 171, § 13/HB 1111; Ga. L. 2015, p. 1370, § 5/HB 118.)

**The 2015 amendment, effective May 12, 2015, added subsection (f).**

## ARTICLE 8

### IDENTIFICATION CARDS FOR PERSONS WITH DISABILITIES

#### **40-5-171. Issuance and contents of identification cards for persons with disabilities.**

(a) The department shall issue personal identification cards to persons with disabilities who make application to the department in accordance with rules and regulations prescribed by the commissioner. The identification card for persons with disabilities shall contain a recent photograph of the applicant and the following information:

- (1) Full legal name;
- (2) Address of residence;
- (3) Birth date;
- (4) Date identification card was issued;
- (5) Date identification card expires;
- (6) Sex;
- (7) Height;
- (8) Weight;
- (9) Eye color;
- (10) Signature of person identified or facsimile thereof; and

(11) Such other information as required by the department; provided, however, that the department shall not require an applicant to submit or otherwise obtain from an applicant any fingerprints or any other biological characteristic or information which uniquely identifies an individual, including without limitation deoxyribonucleic acid (DNA) and retinal scan identification characteristics but not including a photograph, by any means upon application.

(b) The identification card for persons with disabilities shall bear the signatures of the commissioner and the Governor and shall bear an identification card number which shall not be the same as the applicant's social security number.

(c) In addition to the information required in subsection (a) of this Code section, identification cards issued to persons with disabilities shall display the international handicapped symbol on a location designated by the department. The department may display the international handicapped symbol on any driver's license or identification card issued pursuant to the provisions of this chapter upon receipt of the required documentation from the person requesting its inclusion. (Code 1981, § 40-5-171, enacted by Ga. L. 1989, p. 628, § 1; Ga. L. 1990, p. 2048, § 4; Ga. L. 1995, p. 1302, § 7; Ga. L. 1996, p. 1250, § 10; Ga. L. 1997, p. 1443, § 5; Ga. L. 2000, p. 951, § 5-66; Ga. L. 2005, p. 1122, § 5/HB 577; Ga. L. 2008, p. 171, § 14/HB 1111; Ga. L. 2010, p. 932, § 21/HB 396; Ga. L. 2015, p. 60, § 4-23/SB 100.)

**The 2015 amendment**, effective July 1, 2015, deleted "color" preceding "photograph" in the introductory paragraph of subsection (a).

**Editor's notes.** — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General

Assembly, provides that: "Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date."

## CHAPTER 6

### UNIFORM RULES OF THE ROAD

Sec.	Article 1 General Provisions	Sec.	Article 2 Traffic Signs, Signals, and Markings
40-6-15.	Knowingly driving motor vehicle on suspended, canceled, or revoked registration a misdemeanor; punishment.		vehicles when sanitation workers present; penalty.
40-6-16.1.	"Sanitation worker" defined; traffic rules for operators of	40-6-28.	Installation of barriers to restrict access to managed lanes.

**Article 11****Miscellaneous Provisions**

Sec.

40-6-241.2. Writing, sending, or reading text based communication while operating motor vehicle prohibited; prohibited uses of wireless telecommunication devices by drivers of commercial vehicles; exceptions; penalties for violation.

40-6-254. Operating vehicle without adequately securing load.

**Article 13****Special Provisions for Certain Vehicles****PART 3****PERSONAL TRANSPORTATION VEHICLES**

40-6-331. Designation of certain streets

Sec.

or PTV paths for PTV operation; PTV licensing requirements; establishment of operating standards for PTVs; local authority immunity; erection of signage; crossing streets under jurisdiction of Department of Transportation; use of PTVs by a commercial delivery company.

**Article 15****Serious Traffic Offenses**

40-6-391.2. Seizure and civil forfeiture of motor vehicle operated by habitual violator.

**ARTICLE 1****GENERAL PROVISIONS**

**40-6-15. Knowingly driving motor vehicle on suspended, canceled, or revoked registration a misdemeanor; punishment.**

(a) Any person who knowingly drives a motor vehicle on any public road or highway of this state at a time when the vehicle registration of such vehicle is suspended, canceled, or revoked shall be guilty of a misdemeanor.

(b) Upon a first conviction thereof or a plea of nolo contendere, such person shall be punished by imprisonment for not more than 12 months and there may be imposed in addition thereto a fine of not less than \$500.00 nor more than \$1,000.00, at the discretion of the court.

(c) For a second or subsequent conviction within five years as measured from the dates of previous arrests for which convictions were obtained or pleas of nolo contendere were accepted to the date of the current arrest for which a conviction is obtained or a plea of nolo contendere accepted, such person shall be guilty of a high and aggravated misdemeanor and shall be punished by imprisonment for not less than ten days nor more than 12 months and there may be imposed in addition thereto a fine of not less than \$1,000.00 nor more than \$2,500.00.

(d) The department, upon receiving a record of the conviction of any person under this Code section upon a charge of driving a vehicle while

the registration of such vehicle was suspended or revoked, shall extend the period of suspension or revocation for six months. The department may reinstate the suspended or revoked vehicle registration following the expiration of the original suspension or revocation period, the additional six-month suspension imposed pursuant to this subsection, and upon payment of a restoration fee of \$210.00, or \$200.00 when such reinstatement is processed by mail.

(e) For purposes of pleading nolo contendere, only one nolo contendere plea shall be accepted to a charge of driving a motor vehicle with a suspended, canceled, or revoked vehicle registration within a five-year period of time as measured from the date of the previous arrest for which a conviction was obtained or plea of nolo contendere was accepted to the date of the current arrest. All other nolo contendere pleas within such period of time shall be considered convictions.

(f) Notwithstanding the limits set forth in Article 14 of this chapter and in any municipal charter, any municipal court of any municipality in this state shall be authorized to impose the punishment provided for in this Code section upon a conviction of violating this Code section or upon conviction of violating any ordinance adopting the provisions of this Code section. (Code 1981, § 40-6-15, enacted by Ga. L. 2002, p. 1024, § 6; Ga. L. 2015, p. 60, § 4-24/SB 100.)

**The 2015 amendment**, effective July 1, 2015, substituted the present provisions of subsection (e) for the former provisions, which read “For all purposes under this Code section, a plea of nolo contendere shall be considered as a conviction.”

**Editor's notes.** — Ga. L. 2015, p. 60,

§ 6-1/SB 100, not codified by the General Assembly, provides that: “Section 4-9 of Part IV of this Act shall become effective on January 1, 2016, and all other parts of this Act shall become effective on July 1, 2015, and shall apply to offenses which occur on or after that date.”

#### **40-6-16.1. “Sanitation worker” defined; traffic rules for operators of vehicles when sanitation workers present; penalty.**

(a) As used in this Code section, the term “sanitation worker” means an individual engaged in the collection and transport of residential or commercial solid waste and recyclables as authorized by a county or municipal governing authority.

(b) The operator of a motor vehicle approaching a vehicle with active sanitation workers that is displaying flashing yellow, amber, white, or red lights shall approach the vehicle with due caution and shall, absent any other direction by a peace officer, proceed as follows:

(1) Make a lane change into a lane not adjacent to the vehicle if possible in the existing safety and traffic conditions; or

(2) If a lane change under paragraph (1) of this subsection would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be at least ten miles per hour less than the posted speed limit or 25 miles per hour, whichever is more, and be prepared to stop.

(c) Violation of subsection (b) of this Code section shall be punished by a fine of not more than \$250.00. (Code 1981, § 40-6-16.1, enacted by Ga. L. 2015, p. 323, § 1/HB 206.)

**Effective date.** — This Code section became effective July 1, 2015.

## ARTICLE 2

### TRAFFIC SIGNS, SIGNALS, AND MARKINGS

## 40-6-28. Installation of barriers to restrict access to managed lanes.

(a) The department may install gates, signs, or barriers, or any combination thereof, to restrict access to managed lanes.

(b) No person shall drive any vehicle through, around, or under any barrier or closed or moving gate of a managed lane.

(c) No vehicle shall enter or exit a managed lane at any point other than designated entry or exit points unless directed by authorized emergency personnel. (Code 1981, § 40-6-28, enacted by Ga. L. 2015, p. 1058, § 5/SB 125.)

**Effective date.** — This Code section became effective May 6, 2015.

## ARTICLE 3

### DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING AND PASSING, FOLLOWING TOO CLOSELY

## 40-6-48. Driving on roadways laned for traffic.

### JUDICIAL DECISIONS

**Issue should have been submitted to jury.** — Trial court erred by granting summary judgment to the defendants in a wrongful death action upon concluding that the plaintiffs' decedent was 50 per-

cent or more responsible for the decedent's own death because there was an issue of fact as to whether the decedent would have died but for the presence of the tractor-trailer illegally parked in the

emergency lane. *Reed v. Carolina Cas. Ins. Co.*, 327 Ga. App. 130, 755 S.E.2d 356 (2014).

**Cited in** *Barlow v. State*, 327 Ga. App. 719, 761 S.E.2d 120 (2014); *State v.*

*Outen*, 296 Ga. 40, 764 S.E.2d 848 (2014); *Chernowski v. State*, 330 Ga. App. 702, 769 S.E.2d 126 (2015); *Williams v. State*, 296 Ga. 817, 771 S.E.2d 373 (2015).

## 40-6-50. Driving on divided highway, controlled-access roadways, and emergency lanes.

### JUDICIAL DECISIONS

**Tractor trailer illegally parked in emergency lane.** — Trial court erred by granting summary judgment to defendants in a wrongful death action upon concluding that plaintiffs' decedent was 50 percent or more responsible for his own death because there was an issue of fact

as to whether the decedent would have died but for the presence of the tractor-trailer illegally parked in the emergency lane. *Reed v. Carolina Cas. Ins. Co.*, 327 Ga. App. 130, 755 S.E.2d 356 (2014).

## ARTICLE 4

### RIGHT OF WAY

## 40-6-72. Stop signs and yield signs.

### JUDICIAL DECISIONS

**Probable cause for arrest for violation.** — Officer had probable cause to justify an arrest for failure to stop at a stop sign under Georgia law after the officer saw a suspect fail to properly stop

and observed the vehicle go past the white line at the stop sign. *Williams v. Deal*, No. 311-061, 2014 U.S. Dist. LEXIS 114635 (S.D. Ga. Aug. 18, 2014).

## 40-6-73. Entering or crossing roadway.

### JUDICIAL DECISIONS

**Evidence sufficient to support conviction.**

Defendant was properly found guilty of failure to yield based on the testimony of the arresting officer that the defendant

almost caused a collision from pulling out of a bar parking lot onto the roadway. *Dorsey v. State*, 327 Ga. App. 226, 757 S.E.2d 880 (2014).

## ARTICLE 7

NEGOTIATING RAILROAD CROSSINGS, ENTERING HIGHWAYS  
FROM PRIVATE DRIVEWAYS

## 40-6-140. Obedience to signal indicating approach of train; reasonable and prudent standard for crossing railroad grade.

## JUDICIAL DECISIONS

**Instructions to jury.**

In a motorcycle-vehicle collision case, which occurred when a motorcycle crossed a railroad crossing and struck a car as the other driver was making a U-turn to avoid having to wait at the crossing for an

oncoming train, the trial evidence supported the giving of jury charges on O.C.G.A. §§ 40-6-140 and 40-6-180 because these sections addressed approaching railroad crossings. *Young v. Griffin*, 329 Ga. App. 413, 765 S.E.2d 625 (2014).

## ARTICLE 9

## SPEED RESTRICTIONS

## JUDICIAL DECISIONS

**Cited in** *Reed v. Carolina Cas. Ins. Co.*, 327 Ga. App. 130, 755 S.E.2d 356 (2014).

## ARTICLE 10

## STOPPING, STANDING, AND PARKING

## PART 1

## GENERAL PROVISIONS

## 40-6-202. Stopping, standing, or parking outside of business or residential districts.

## JUDICIAL DECISIONS

**Parking restrictions do not apply in business districts.** — Georgia Court of Appeals concludes that the parking restrictions in O.C.G.A. § 40-6-202 do not apply within a business district and because a business district is comprised of the territory contiguous to and including a

highway, the parking restrictions in § 40-6-202 cannot be read to apply to roadways within areas meeting the criteria in O.C.G.A. § 40-1-1(8). *Granger v. MST Transp., LLC*, 329 Ga. App. 268, 764 S.E.2d 872 (2014).

**40-6-203. Stopping, standing, or parking prohibited in specified places; stopping or standing for collecting municipal solid waste or recovered materials.****JUDICIAL DECISIONS**

**Tractor trailer illegally parked in emergency lane.** — Trial court erred by granting summary judgment to the defendants in a wrongful death action upon concluding that the plaintiffs' decedent was 50 percent or more responsible for the decedent's own death because there was

an issue of fact as to whether the decedent would have died but for the presence of the tractor-trailer illegally parked in the emergency lane. *Reed v. Carolina Cas. Ins. Co.*, 327 Ga. App. 130, 755 S.E.2d 356 (2014).

**ARTICLE 11****MISCELLANEOUS PROVISIONS****40-6-241. Driver to exercise due care; proper use of radios and mobile telephones allowed.****JUDICIAL DECISIONS**

**Award of punitive damages based on cell phone use in auto accident.** — After an employee collided with a vehicle while driving a tractor-trailer, the employee was not entitled to summary judgment on the punitive damages claim because although the proper use of a cell phone while driving was permissible in Georgia, the court could not find as a matter of law that the plaintiffs could not

prove aggravating circumstances that would warrant an award of punitive damages; the punitive damages claims against other defendants failed because the plaintiffs presented no evidence that these defendants actually knew about the nature of the employee's cell phone use. *Little v. McClure*, No. (MTT), 2014 U.S. Dist. LEXIS 120681 (M.D. Ga. Aug. 29, 2014).

**40-6-241.2. Writing, sending, or reading text based communication while operating motor vehicle prohibited; prohibited uses of wireless telecommunication devices by drivers of commercial vehicles; exceptions; penalties for violation.**

(a) As used in this Code section, the term "wireless telecommunications device" means a cellular telephone, a text messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is used to initiate or receive a wireless communication with another person. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, subscription based emergency communications, in-vehicle security, navigation devices, and remote diagnostics systems, or amateur or ham radio devices.

(b)(1) No person who is 18 years of age or older or who has a Class C license shall operate a motor vehicle on any public road or highway of this state while using a wireless telecommunications device to write, send, or read any text based communication, including but not limited to a text message, instant message, e-mail, or Internet data.

(2) No person shall operate a commercial motor vehicle on any public road or highway of this state while:

(A) Holding a wireless telecommunications device to conduct a voice communication;

(B) Using more than a single button on a wireless telecommunications device to initiate or terminate a voice communication; or

(C) Reaching for a wireless telecommunications device in such a manner that requires the driver to maneuver so that he or she is no longer in a seated driving position properly restrained by a safety belt.

(c) The provisions of this Code section shall not apply to:

(1) A person reporting a traffic accident, medical emergency, fire, serious road hazard, or a situation in which the person reasonably believes a person's health or safety is in immediate jeopardy;

(2) A person reporting the perpetration or potential perpetration of a crime;

(3) A public utility employee or contractor acting within the scope of his or her employment when responding to a public utility emergency;

(4) A law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or

(5) A person engaging in wireless communication while in a motor vehicle which is lawfully parked.

(d) Any conviction for a violation of the provisions of this Code section shall be a misdemeanor punishable by a fine of \$150.00. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the disposition to the Department of Driver Services. Any violation of this Code section shall constitute a separate offense. (Code 1981, § 40-6-241.2, enacted by Ga. L. 2010, p. 1158, § 4/SB 360; Ga. L. 2015, p. 1370, § 6/HB 118.)

**The 2015 amendment**, effective May 12, 2015, substituted “this Code section” for “the Code section” near the beginning of the first sentence of subsection (a); and,

in subsection (b), designated the existing provisions as paragraph (b)(1) and added paragraph (b)(2).

### **40-6-253. Consumption of alcoholic beverage or possession of open container of alcoholic beverage in passenger area.**

#### **JUDICIAL DECISIONS**

**Out of time appeal following guilty plea rejected.** — Following guilty pleas to first degree homicide by vehicle and possession of an open container, the trial court properly denied the defendant’s motion for an out-of-time appeal, finding that the defendant failed to show that the right to an appeal was frustrated by ineffective

assistance of counsel since the record showed that the attacks on the guilty plea in the out-of-time appeal were without merit; thus, trial counsel could not have been ineffective in failing to pursue such an appeal. *Martin v. State*, 329 Ga. App. 10, 763 S.E.2d 363 (2014).

### **40-6-254. Operating vehicle without adequately securing load.**

No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of such load onto the roadway in such a manner as to create a safety hazard. For purposes of this Code section, a load shall include, but not be limited to, a trailer required to be registered under Chapter 2 of this title. Any person who operates a vehicle in violation of this Code section shall be guilty of a misdemeanor. (Code 1981, § 40-6-254, enacted by Ga. L. 1992, p. 1967, § 2; Ga. L. 2002, p. 1270, § 2; Ga. L. 2015, p. 584, § 1/HB 123.)

**The 2015 amendment**, effective July 1, 2015, added the second sentence.

## ARTICLE 13

### SPECIAL PROVISIONS FOR CERTAIN VEHICLES

#### PART 3

##### PERSONAL TRANSPORTATION VEHICLES

###### **40-6-331. Designation of certain streets or PTV paths for PTV operation; PTV licensing requirements; establishment of operating standards for PTVs; local authority immunity; erection of signage; crossing streets under jurisdiction of Department of Transportation; use of PTVs by a commercial delivery company.**

(a) A local authority may, by ordinance, designate certain public streets or portions thereof or PTV paths that are under its regulation and control for the combined use of PTVs and regular vehicular traffic or the use of PTVs and no other types of motor vehicles and establish the conditions under which PTVs may be operated upon such streets or portions thereof or PTV paths, including without limitation the conditions under which a person may operate PTVs on such designated streets or portions thereof or PTV paths. All operators of PTVs shall be required to possess a valid driver's license except when operating a PTV within a locality whose local authority has enacted an ordinance permitting the use of PTVs or motorized carts on streets without possession of a driver's license prior to January 1, 2012.

(b) Local authority ordinances may establish operating standards but shall not require PTVs to meet any requirements of general law as to registration, inspection, certificate of title, or licensing; provided, however, that a local authority may, by ordinance, require the local registration and licensing of PTVs operated within its boundaries at least once every five years for a fee not to exceed \$15.00. No local authority shall be liable for losses that result from exercising or not exercising inspection powers or functions, including failure to make an inspection or making an inadequate or negligent inspection of a PTV. The provisions of this subsection and the authority granted by this subsection shall not apply to PTVs owned by golf courses, country clubs, or other such organized entities which own such PTVs and make them available to or for use by members or the public on a rental or licensed basis, provided that such PTVs are used only on the premises of such golf courses, country clubs, or other such organized entities.

(c) Each local authority permitting the use of PTVs upon the public streets within its jurisdiction shall erect signs on every highway which comprises a part of the state highway system at that point on the highway which intersects the corporate limits of the municipality or

boundaries of the county. Such signs shall be at least 24 by 30 inches in area and shall warn approaching motorists that PTVs are authorized for use on public streets. All costs associated with such signs shall be funded entirely by the local authority. Ordinances establishing operating standards for PTVs shall not be effective unless appropriate signs giving notice are posted as required by this subsection.

(d)(1) In jurisdictions where PTVs are permitted or otherwise allowed by state law, PTVs may cross streets and highways that are part of the state highway system only at crossings or intersections designated for that purpose and which are constructed as an active grade crossing in accordance with the Manual on Uniform Traffic Control Devices. PTV crossings shall be indicated by warning sign W11-11 of the Standard Highway Signs and be clearly visible in both directions by vehicles traversing the highway which is being crossed or intersected by PTVs.

(2) PTVs may cross streets and highways that are part of a municipal street system or county road system and used by other types of motor vehicles only at crossings or intersections designated for that purpose by the local authority having jurisdiction over such system.

(e)(1) Regardless of whether a local ordinance has been approved regarding the use of PTVs, delivery personnel for a commercial delivery company which has at least 10,000 persons employed in this state may operate PTVs within a residential subdivision with speed limits of 25 miles per hour or less, provided that any PTV utilized by a commercial delivery company shall:

(A) Include the equipment required in subsection (a) of Code Section 40-6-330.1;

(B) Be marked in a conspicuous manner with the name of the commercial delivery company;

(C) Be operated by a person with a valid driver's license; and

(D) Be utilized only for the delivery of envelopes and packages with a maximum size of 130 inches for the combined length and girth and with a weight no greater than 150 pounds per package.

(2) Any commercial delivery company utilizing PTVs under this subsection shall remit a \$50.00 fee every five years to each local authority where a PTV is operated along with a signed statement that such commercial delivery company operates PTVs within the jurisdiction of such local authority.

(3) Notwithstanding any other provision of law to the contrary, any person operating a PTV under this subsection shall be granted all the

rights and shall be subject to all the duties applicable to a driver of any other vehicle under this chapter; provided, however that subsection (b) of Code Section 40-6-315 shall not be applicable to the operator of a PTV under this subsection.

(4) Any PTV authorized to operate pursuant to this subsection shall not pull multiple trailers. Such PTVs shall be limited to pulling one trailer or cargo platform and be limited to hauling weight no greater than the carrying capacity of the PTV as determined by the manufacturer. (Ga. L. 1973, p. 598, § 2; Code 1933, § 68A-1402, enacted by Ga. L. 1974, p. 633, § 1; Ga. L. 1990, p. 1241, § 2; Ga. L. 1990, p. 2048, § 5; Ga. L. 2002, p. 506, § 6; Ga. L. 2002, p. 512, § 11; Ga. L. 2004, p. 67, § 3; Ga. L. 2013, p. 872, § 1/HB 384; Ga. L. 2014, p. 745, § 10/HB 877; Ga. L. 2015, p. 1072, § 6/SB 169.)

**The 2015 amendment**, effective July 1, 2015, added subsection (e).

## ARTICLE 15

### SERIOUS TRAFFIC OFFENSES

#### 40-6-390. Reckless driving.

##### JUDICIAL DECISIONS

###### ANALYSIS

###### GENERAL CONSIDERATION

###### General Consideration

**Cruelty to children count did not merge with reckless driving count.** — Trial court properly did not merge the appellant's convictions for cruelty to children in the second degree and serious injury by vehicle by the act of reckless driving with respect to the same victim for the purpose of sentencing because each

offense required proof of a different wrongful act as the cruelty to children conviction required proof of facts not required by the serious injury by vehicle conviction and vice versa. *McNeely v. State*, 296 Ga. 422, 768 S.E.2d 751 (2015).

**Cited in** *State v. Outen*, 296 Ga. 40, 764 S.E.2d 848 (2014); *Holman v. State*, 329 Ga. App. 393, 765 S.E.2d 614 (2014).

#### 40-6-391. Driving under the influence of alcohol, drugs, or other intoxicating substances; penalties; publication of notice of conviction for persons convicted for second time; endangering a child.

##### JUDICIAL DECISIONS

###### ANALYSIS

###### GENERAL CONSIDERATION

###### NOTICE

###### TESTING

## EVIDENCE

**General Consideration**

**Determination of actual consent required.** — Defendant's driving under the influence case was remanded to the trial court because in considering the defendant's motion to suppress, the court failed to address whether the defendant gave actual consent to the procuring and testing of blood, which would require the determination of the voluntariness of the consent under the totality of the circumstances. *Williams v. State*, 296 Ga. 817, 771 S.E.2d 373 (2015).

**Out of time appeal following guilty plea rejected.** — Following guilty pleas to first degree homicide by vehicle and possession of an open container, the trial court properly denied the defendant's motion for an out-of-time appeal finding that the defendant failed to show that the right to an appeal was frustrated by ineffective assistance of counsel since the record showed that the attacks on the guilty plea in the out-of-time appeal were without merit; thus, trial counsel could not have been ineffective in failing to pursue such an appeal. *Martin v. State*, 329 Ga. App. 10, 763 S.E.2d 363 (2014).

Cited in *Reed v. Carolina Cas. Ins. Co.*, 327 Ga. App. 130, 755 S.E.2d 356 (2014); *Preston v. State*, 327 Ga. App. 556, 760 S.E.2d 176 (2014).

**Notice****Notice of implied consent rights.**

Trial court did not err by refusing to suppress the defendant's blood-test results based on not being under arrest prior to being read Georgia's Implied Consent notice because although the defendant's recollection differed from that of the law-enforcement officer, and although defense counsel cross-examined the officer extensively as to alleged inconsistencies in the chronology of events, the officer testified that the officer issued citations to the defendant before reading Georgia's Implied Consent notice. *Chernowski v. State*, 330 Ga. App. 702, 769 S.E.2d 126 (2015).

Trial court erred when the court granted the defendant's motion to sup-

press evidence based on the officer adding words to the implied consent notice because the added words did not alter the substance of the notice nor affect the defendant's consent to testing. *State v. Fedrick*, 329 Ga. App. 75, 763 S.E.2d 739 (2014).

**Testing**

**Determination of actual consent required.** — Based on the United States Supreme Court decision in *Missouri v. McNeely*, in which the court rejected a per se rule that the natural metabolization of alcohol in a person's bloodstream constitutes an exigency justifying an exception to the U.S. Const., amend. 4's search warrant requirement for nonconsensual blood testing in all driving under the influence cases, the Georgia Supreme Court overruled *Strong v. State*, 231 Ga. 514 (1973) to the extent that decision holds otherwise. *Williams v. State*, 296 Ga. 817, 771 S.E.2d 373 (2015).

**Evidence**

**Roadblock failed to satisfy Fourth Amendment standard.** — Because the state failed to show that a police department's checkpoint program had an appropriate primary purpose other than ordinary crime control when viewed at the programmatic level, the checkpoint violated the Fourth Amendment, and the defendant's DUI convictions were reversed. *Charales v. State*, 329 Ga. App. 533, 765 S.E.2d 701 (2014).

**Presence of cocaine in blood supported conviction.** — Evidence that while driving a truck the defendant was involved in an accident and that a blood test revealed a metabolite of cocaine in the defendant's blood was sufficient to support the defendant's conviction for driving under the influence. *Holland v. State*, 329 Ga. App. 103, 763 S.E.2d 894 (2014).

**Evidence sufficient to support conviction of driving under influence.**

Sufficient evidence supported the defendant's conviction for driving under the influence based on testimony that prior to the accident, the defendant was driving

aggressively at an excessive rate of speed and weaving before crossing the median and making impact with the victim's car and the testimony from a witness and law-enforcement officer that the defendant reeked of alcohol, had bloodshot eyes, spoke with slurred speech, became belligerent, and refused to submit to a state-administered test. *Holman v. State*, 329 Ga. App. 393, 765 S.E.2d 614 (2014).

**Evidence supporting verdict of drunken driving.**

Defendant was properly found guilty of driving under the influence given the evidence regarding the manner of failing to yield when entering the roadway, the smell of alcohol on defendant's person, the positive result of the blood alcohol test, defendant's performance on the field sobriety tests, the open containers of alcohol in the vehicle, and the defendant's deci-

sion to flee from the scene. *Dorsey v. State*, 327 Ga. App. 226, 757 S.E.2d 880 (2014).

**Cell phone evidence inadmissible in DUI case.** — Trial court erred by denying the defendant's motion to suppress the digital contents of the defendant's cell phone following the defendant's arrest for driving while under the influence because no exigent circumstances existed, particularly since the defendant was arrested, handcuffed, and the keys secured. Specifically, warrantless searches of a cell phone, even one that is seized incident to an arrest, is illegal, unless the state can show that exigent circumstances made the needs of law enforcement so compelling that a warrantless search was objectively reasonable under U.S. Const., amend. IV. *Brown v. State*, 330 Ga. App. 488, 767 S.E.2d 299 (2014).

#### **40-6-391.2. Seizure and civil forfeiture of motor vehicle operated by habitual violator.**

(a) Any motor vehicle operated by a person who has been declared a habitual violator for three violations of Code Section 40-6-391, whose license has been revoked, and who is arrested and charged with a violation of Code Section 40-6-391 is declared to be contraband and subject to forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9.

(b) In any case where a vehicle which is the only family vehicle is determined to be subject to forfeiture, the court may, if it determines that the financial hardship to the family as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture, order the title to the vehicle transferred to such other family member who is a duly licensed operator and who requires the use of such vehicle for employment or family transportation purposes. Such transfer shall be subject to any valid liens and shall be granted only once. (Code 1981, § 40-6-391.2, enacted by Ga. L. 1991, p. 1896, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2015, p. 693, § 3-24/HB 233.)

**The 2015 amendment**, effective July 1, 2015, substituted the present provisions of this Code section for the former provisions, which read: "(a) Except as provided in this Code section, any motor vehicle operated by a person who has been declared a habitual violator for three violations of Code Section 40-6-391 and whose license has been revoked and who

is arrested and charged with a violation of Code Section 40-6-391, is declared to be contraband and subject to forfeiture to the state, as provided in this Code section, provided that said forfeiture shall not be absolute unless the defendant is finally convicted of such offense.

"(b) Any motor vehicle subject to forfeiture under subsection (a) of this Code

section shall be seized immediately upon discovery by any law enforcement officer, peace officer, or law enforcement agency of this state or any political subdivision thereof who has the power to make arrests and whose duty it is to enforce this article, that said motor vehicle has been declared contraband. Said motor vehicle shall be delivered within 20 days to the district attorney whose circuit includes the county in which a seizure is made or to his duly authorized agent. At any time subsequent to the seizure, the chief officer of the seizing agency, his designee, or the district attorney may release the vehicle upon bond being posted in like manner as authorized in subsection (e) of this Code section.

"(c) Within 60 days from the date of the seizure, the district attorney of the judicial circuit, or the director on his behalf, shall cause to be filed in the superior court of the county in which the motor vehicle is seized or detained an action for condemnation of such motor vehicle. The proceedings shall be brought in the name of the state by the district attorney of the circuit in which the motor vehicle was seized, and the action shall be verified by a duly authorized agent of the state in a manner required by the law of this state. The action shall describe the motor vehicle and state its location, present custodian, and the name of the owner, if known, to the duly authorized agent of the state; allege the essential elements of the violation which is claimed to exist; and conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such an action, the court shall promptly cause process to issue to the present custodian in possession of the motor vehicle described in the action, commanding him to seize the motor vehicle in the action and to hold that motor vehicle for further order of the court. The owner, lessee, or any person having a duly recorded security interest in or lien on such motor vehicle shall be notified by any means of service provided for in Title 9 or by delivery of a copy of the complaint and summons by certified mail or statutory overnight delivery to said owner or lienholder or a person of suitable age or discretion having charge of said owner's premises.

For purposes of this subsection, where forfeiture of a motor vehicle titled or registered in Georgia is sought, notice to the titleholder shall be deemed adequate if a copy of the complaint and summons is mailed by certified mail or statutory overnight delivery to the titleholder at the address set out in the title and an additional copy is mailed by certified mail or statutory overnight delivery to the firm, person, or corporation which holds the current registration for said motor vehicle, who shall be deemed agent for service for said titleholder, and said complaint is advertised once a week for two weeks as set out in this subsection. If the owner, lessee, or person having a duly recorded security interest in or lien on the contraband motor vehicle is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself so as to avoid notice, notice of the proceedings shall be published once a week for two weeks in the newspaper in which the sheriff's advertisements are published. Such publication shall be deemed notice to any and all persons having an interest in or right affected by such proceeding and any sale of the motor vehicle resulting therefrom, but shall not constitute notice to any person having a duly recorded security interest in or lien upon such motor vehicle and required to be served under this Code section unless that person is unknown or resides out of the state or departs the state or cannot after due diligence be found within the state or conceals himself to avoid notice.

"(d)(1) Any party at interest may appear, by answer under oath, and file an intervention or defense within 30 days from the date of service on the condemnee of the action for condemnation. The owner, lessee, security interest holder, or lienholder shall be permitted to defend by showing that the motor vehicle seized was not subject to forfeiture under this Code section.

"(2) A rented or leased vehicle shall not be subject to forfeiture unless it is established in the forfeiture proceedings that the owner of the rented or leased vehicle knew or should have known of or consented to the operation of such motor

vehicle in a manner which would subject the vehicle to forfeiture. Upon learning of the address or phone number of the rental or leasing company which owns such vehicle, the district attorney shall immediately contact the company to inform it that the vehicle is available for the company to take possession.

“(e) The court to which any such petition for condemnation may be referred may, in its discretion, allow any party at interest, after making said defense under subsection (d) of this Code section, to give bond and take possession of the motor vehicle seized. Such motor vehicle shall not be sold or leased without prior approval of the court. In the event the court approves such sale or lease, the proceeds arising therefrom shall be deposited in the registry of the court, pending final adjudication of the forfeiture proceeding. The court shall determine whether the bond shall be a forthcoming bond or an eventual condemnation money bond and shall also determine the amount of the bond. The enforcement of any bond so given shall be regulated by the general law applicable to such cases.

“(f) If no defense or intervention is filed within 30 days from the date of service on the condemnee of the petition, judgment shall be entered by the court and the motor vehicle shall be sold. The court may direct that such property be sold by:

“(1) Judicial sale as provided in Article 7 of Chapter 13 of Title 9; provided, however, that the court may establish a minimum acceptable price for such property; or

“(2) Any commercially feasible means.

“(g) The proceeds arising from such sale shall be deposited into the general treasury of the state or any other governmental unit whose law enforcement agency it was that originally seized the motor vehicle. It is the intent of the General Assembly that, where possible, proceeds depos-

ited into the state treasury should be used and that proceeds vested in any local governmental unit shall be applied to fund alcohol or drug treatment, rehabilitation, and prevention and education programs, after making the necessary expenditures for:

“(1) Any costs incurred in the seizure;

“(2) The costs of the court and its officers; and

“(3) Any cost incurred in the storage, advertisement, maintenance, or care of the motor vehicle.

“(h) The interest of an owner, lessee, security interest holder, or lienholder shall not be subject to forfeiture unless the condemnor shows by a preponderance of evidence that such person knew or reasonably should have known that the operator was a habitual violator as set forth in subsection (a) of this Code section and knew or reasonably should have known that such person would operate or was operating the vehicle while in violation of Code Section 40-6-391.

“(i) In any case where a vehicle which is the only family vehicle is determined to be subject to forfeiture, the court may, if it determines that the financial hardship to the family as a result of the forfeiture and sale outweighs the benefit to the state from such forfeiture, order the title to the vehicle transferred to such other family member who is a duly licensed operator and who requires the use of such vehicle for employment or family transportation purposes. Such transfer shall be subject to any valid liens and shall be granted only once.” See editor’s notes for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides, in part, that this Act “shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure.”

## 40-6-392. Chemical tests for alcohol or drugs in blood.

### JUDICIAL DECISIONS

#### ANALYSIS

#### GENERAL CONSIDERATION PERFORMANCE OF TESTS

## ADMISSIBILITY OF RESULTS

**General Consideration**

**Exclusion from discovery provisions when defendant refused to submit to chemical testimony of arresting officer.** — Because the defendant refused to submit to the chemical testimony required by the arresting officer pursuant to O.C.G.A. § 40-5-55, the defendant was excluded from the discovery provisions of O.C.G.A. § 40-6-392(a)(4), and the trial court correctly denied the defendant's discovery request made pursuant to those provisions. *Massey v. State*, 331 Ga. App. 430, 771 S.E.2d 122 (2015).

**Performance of Tests**

**Statutory requirements apply to blood test analyzed by hospital.** — Requirements in O.C.G.A. § 40-6-392 apply to a blood test requested by a law enforcement officer but analyzed by a hospital. *State v. Padgett*, 329 Ga. App. 747, 766 S.E.2d 143 (2014).

**Admissibility of Results****Implied consent warnings were timely, etc.**

Trial court did not err by refusing to suppress the defendant's blood-test results based on not being under arrest prior to being read Georgia's Implied Consent notice because although the defendant's recollection differed from that of the law-enforcement officer, and although defense counsel cross-examined the officer extensively as to alleged inconsistencies

in the chronology of events, the officer testified that the officer issued citations to the defendant before reading Georgia's Implied Consent notice. *Chernowski v. State*, 330 Ga. App. 702, 769 S.E.2d 126 (2015).

**Failure to abide by statute renders test inadmissible.**

Even if the police were entitled to discover the result of the blood test by lawfully obtaining a warrant for the defendant's medical record, that did not change the fact that the result in the medical record was from a procedure that failed to comply with this statute, which governed the admissibility of state-administered blood alcohol tests, and the presence of a warrant did not cure the improper testing procedure that occurred; thus, the inevitable discovery doctrine did not provide an avenue for admission of the defendant's blood test results. *State v. Padgett*, 329 Ga. App. 747, 766 S.E.2d 143 (2014).

Trial court did not err in granting the defendant's motion to suppress a blood test for failing to comply with O.C.G.A. § 40-6-392 because, although an officer requested that the defendant's blood be drawn by a registered nurse at a hospital, the officer did not retain the sample for testing or request that the sample be sent to the state crime lab; the analysis of the defendant's blood was performed by the hospital; and the hospital's analysis of the defendant's blood sample did not comply with the requirements of the statute and was thus inadmissible. *State v. Padgett*, 329 Ga. App. 747, 766 S.E.2d 143 (2014).

**40-6-393. Homicide by vehicle.****JUDICIAL DECISIONS****ANALYSIS****PLEADINGS****Pleadings**

**No additional time to obtain indictment for felony vehicular homicide.** — Georgia Court of Appeals properly concluded that O.C.G.A. § 17-3-3 did not give the state six additional months to obtain a

second indictment against the appellee for felony vehicular homicide (FVH) after the state's unsuccessful attempt to appeal the dismissal of the FVH count of the first indictment as the appeal did not stay any time limit and the FVH count of the sec-

ond indictment did not relate back to the date of the first indictment since only a misdemeanor was pending at that point.

State v. Outen, 296 Ga. 40, 764 S.E.2d 848 (2014).

#### 40-6-394. Serious injury by vehicle.

##### JUDICIAL DECISIONS

###### **Evidence of serious injury.**

Defendant was properly found guilty of causing serious injury by vehicle as a result of struggling with the arresting officer while attempting to be handcuffed, attempting to flee while the officer was in the doorway of the vehicle, and the officer being thrown from the vehicle, causing a broken arm and a dislocated shoulder. Dorsey v. State, 327 Ga. App. 226, 757 S.E.2d 880 (2014).

Trial court was authorized to find that the injury to the husband, multiple rib fractures and bruising, and the wife's dislocated finger and head laceration rose to the level of serious disfigurement for purposes of the defendant's convictions for serious injury by vehicle. Bray v. State, 330 Ga. App. 768, 768 S.E.2d 285 (2015).

**Cruelty to children count did not merge with serious injury by vehicle count.** — Trial court properly did not merge the appellant's convictions for cruelty to children in the second degree and serious injury by vehicle by the act of reckless driving with respect to the same victim for the purpose of sentencing because each offense required proof of a different wrongful act as the cruelty to children conviction required proof of facts not required by the serious injury by vehicle conviction and vice versa. McNeely v. State, 296 Ga. 422, 768 S.E.2d 751 (2015).

**Cited in** Holman v. State, 329 Ga. App. 393, 765 S.E.2d 614 (2014).

#### 40-6-395. Fleeing or attempting to elude police officer; impersonating law enforcement officer.

##### JUDICIAL DECISIONS

###### **Conviction upheld.**

Evidence was sufficient to support the appellant's conviction as a party to the crime of violating O.C.G.A. § 40-6-395(a) for fleeing and eluding because the appellant testified and admitted shoplifting, admitted to having a prior record of shop-

lifting, had only recently been released from prison, and that getting caught on the day of the events would be a parole violation that would send the appellant back to prison. McNeely v. State, 296 Ga. 422, 768 S.E.2d 751 (2015).

## CHAPTER 8

# EQUIPMENT AND INSPECTION OF MOTOR VEHICLES

### Article 1

#### Equipment Generally

##### PART 4

HORNS, EXHAUST SYSTEMS, MIRRORS,  
WINDSHIELDS, TIRES, SAFETY BELTS, ENERGY  
ABSORPTION SYSTEMS

Sec.

40-8-76.1. Use of safety belts in passenger vehicles.

### ARTICLE 1

#### EQUIPMENT GENERALLY

##### PART 2

#### LIGHTING EQUIPMENT

**40-8-25. Brake lights and turn signals required.**

#### JUDICIAL DECISIONS

**Mistaken belief of officer regarding violation does not invalidate stop.** — Trial court erred in granting the defendant's motion to suppress because, even if the officer was mistaken in the belief that the center light was a brake light and that all brake lights had to be illuminated under O.C.G.A. § 40-8-25, the officer's reasonable belief that an offense had been committed as the center light was not illuminated, though the officer might have

been mistaken either as to fact or law, was a sufficient founding suspicion to enable the trial court to determine that the stop was not mere arbitrariness or harassment, which was the real question; furthermore, the trial court's reasoning that a crime had to have been committed for the stop to have been valid was improper. *State v. Cartwright*, 329 Ga. App. 154, 764 S.E.2d 175 (2014).

##### PART 4

HORNS, EXHAUST SYSTEMS, MIRRORS, WINDSHIELDS, TIRES, SAFETY BELTS,  
ENERGY ABSORPTION SYSTEMS

**40-8-73. Windshields and windshield wipers.**

#### JUDICIAL DECISIONS

**Cited in** *State v. Terrell*, 327 Ga. App. 745, 761 S.E.2d 142 (2014).

**40-8-76.1. Use of safety belts in passenger vehicles.**

(a) As used in this Code section, the term "passenger vehicle" means every motor vehicle, including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to carry 15 passengers or fewer and used for the transportation of persons; provided, however, that such term shall not include motorcycles; motor driven cycles; or off-road vehicles or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in connection with agricultural pursuits that are usual and normal to the user's farming operation; and provided, further, that such term shall not include motor vehicles designed to carry 11 to 15 passengers which were manufactured prior to July 1, 2015, and which, as of such date, did not have manufacturer installed seat safety belts.

(b) Each occupant of the front seat of a passenger vehicle shall, while such passenger vehicle is being operated on a public road, street, or highway of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

(c) The requirement of subsection (b) of this Code section shall not apply to:

(1) A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle, if the speed of the vehicle between stops does not exceed 15 miles per hour;

(2) A driver or passenger possessing a written statement from a physician that such person is unable, for medical or physical reasons, to wear a seat safety belt;

(3) A driver or passenger possessing an official certificate or license endorsement issued by the appropriate agency in another state or country indicating that the driver is unable for medical, physical, or other valid reasons to wear a seat safety belt;

(4) A driver operating a passenger vehicle in reverse;

(5) A passenger vehicle with a model year prior to 1965;

(6) A passenger vehicle which is not required to be equipped with seat safety belts under federal law;

(7) A passenger vehicle operated by a rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier;

(8) A passenger vehicle from which a person is delivering newspapers; or

(9) A passenger vehicle performing an emergency service.

(d) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat of a motor vehicle which has a seat safety belt or belts shall not be considered evidence of negligence or causation, shall not otherwise be considered by the finder of fact on any question of liability of any person, corporation, or insurer, shall not be any basis for cancellation of coverage or increase in insurance rates, and shall not be evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy, or operation of a motor vehicle.

(e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person failing to comply with the requirements of subsection (b) of this Code section shall not be guilty of any criminal act and shall not be guilty of violating any ordinance. A violation of this Code section shall not be a moving traffic violation for purposes of Code Section 40-5-57.

(2) A person failing to comply with the requirements of subsection (b) of this Code section shall be guilty of the offense of failure to wear a seat safety belt and, upon conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the disposition of the case of failure to wear a seat safety belt to the Department of Driver Services.

(3) Each minor eight years of age or older who is an occupant of a passenger vehicle shall, while such passenger vehicle is being operated on a public road, street, or highway of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle Safety Standard 208. In any case where a minor passenger eight years of age or older fails to comply with the requirements of this paragraph, the driver of the passenger vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and, upon conviction thereof, may be fined not more than \$25.00. The court imposing such a fine shall forward a record of the court disposition of the case of failure to secure a seat safety belt on a minor to the Department of Driver Services.

(f) Probable cause for violation of this Code section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person not restrained as required by this Code section. Noncompliance with the restraint requirements of this Code section shall not constitute probable cause for violation of any other Code section. (Code 1981, § 40-8-76.1, enacted by Ga. L. 1988, p. 31, § 1; Ga. L. 1990, p. 588, § 1; Ga. L. 1993, p. 516, § 1; Ga. L. 1994, p. 1005, § 1; Ga. L. 1996, p. 469, § 3; Ga. L. 1997, p. 143, § 40; Ga. L. 1998, p. 1579, § 1; Ga. L. 1999, p.

276, § 1; Ga. L. 2000, p. 862, § 1; Ga. L. 2000, p. 951, § 5B-4; Ga. L. 2004, p. 716, § 2; Ga. L. 2005, p. 334, § 19-4/HB 501; Ga. L. 2010, p. 817, § 1/SB 458; Ga. L. 2011, p. 253, § 2/SB 88; Ga. L. 2015, p. 940, § 1/HB 325.)

**The 2015 amendment**, effective July 1, 2015, in subsection (a), substituted “15 passengers” for “ten passengers” near the beginning and added the second proviso.

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## **CHAPTER 9**

### **REPORTING ACCIDENTS; GIVING PROOF OF FINANCIAL RESPONSIBILITY**

#### **Article 2**

##### **Reporting Accidents; Giving Security for Damages**

Sec.

**40-9-31. Submission of accident reports to department.**

#### **ARTICLE 2**

### **REPORTING ACCIDENTS; GIVING SECURITY FOR DAMAGES**

#### **40-9-31. Submission of accident reports to department.**

Each state and local law enforcement agency shall submit to the Department of Transportation the original document of any accident report prepared by such law enforcement agency or submitted to such agency by a member of the public. If the Department of Driver Services receives a claim requesting determination of security, the Department of Transportation shall provide a copy or an electronic copy of any relevant accident reports to the Department of Driver Services. Any law enforcement agency may transmit the information contained on the accident report form by electronic means, provided that the Department of Transportation has first given approval to the reporting agency for the electronic reporting method utilized. The law enforcement agency shall retain a copy of each accident report. Any law enforcement agency that transmits the data by electronic means must transmit the data using a nonproprietary interchangeable electronic format and reporting method. For purposes of this Code section, the term “nonproprietary” shall include commonly used report formats. All such reports shall be submitted to the Department of Transportation within 14 days when electronically submitted and when not electronically submitted not more than 15 days following the end of the month in

which such report was prepared or received by such law enforcement agency. The Department of Transportation is authorized to engage the services of a third party in fulfilling its responsibilities under this Code section. (Code 1981, § 40-9-31, enacted by Ga. L. 1994, p. 362, § 1; Ga. L. 1999, p. 871, § 1; Ga. L. 2000, p. 951, § 6-3; Ga. L. 2002, p. 415, § 40; Ga. L. 2005, p. 334, § 20-2/HB 501; Ga. L. 2011, p. 583, § 13/HB 137; Ga. L. 2015, p. 1072, § 7/SB 169.)

**The 2015 amendment**, effective July 1, 2015, inserted “within 14 days when electronically submitted and when not

electronically submitted” in the next to last sentence of this Code section.

## CHAPTER 11

### ABANDONED MOTOR VEHICLES

#### Article 1

##### General Provisions

Sec.

40-11-6. (For effective date, see note.) Sale of vehicle pursuant to foreclosure.

Sec.

40-11-21. Assignment of new identification numbers prior to disposition of property.

40-11-22 through 40-11-24. [Repealed].

#### Article 2

##### Civil Forfeiture of Vehicles and Components

40-11-20. Items subject to civil forfeiture.

### ARTICLE 1 GENERAL PROVISIONS

#### 40-11-6. (For effective date, see note.) Sale of vehicle pursuant to foreclosure.

(a)(1) (For effective date, see note.) As used in this subsection, the term “public sale” means a sale:

(A) Held at a place reasonably available to persons who might desire to attend and submit bids;

(B) At which those attending shall be given the opportunity to bid on a competitive basis;

(C) At which the sale, if made, shall be made to the highest and best bidder; and

(D) Except as otherwise provided in Title 11 for advertising or dispensing with the advertising of public sales, of which notice is

given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county where the sale is to be held, and which notice shall state the day and hour, between 9:00 A.M. and 5:00 P.M., and the place of sale and shall briefly identify the goods to be sold.

(2) (For effective date, see note.) Upon order of the court, the person holding the lien on the abandoned motor vehicle shall be authorized to sell such motor vehicle at public sale.

(b) After satisfaction of the lien, the person selling such motor vehicle shall, not later than 30 days after the date of such sale, provide the clerk of the court with a copy of the bill of sale as provided to the purchaser and turn the remaining proceeds of such sale, if any, over to the clerk of the court. Any person who fails to comply with the requirements of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor. (Ga. L. 1980, p. 995, § 6; Ga. L. 1998, p. 1305, § 4; Ga. L. 2000, p. 951, § 7-1; Ga. L. 2015, p. 996, § 3C-5/SB 65.)

**Delayed effective date.** — Subsection (a), as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

**The 2015 amendment**, effective January 1, 2016, redesignated the previously existing provisions of subsection (a) as paragraph (a)(2); added paragraph (a)(1); and, in paragraph (a)(2), deleted “, as defined by Code Section 11-1-201” at the end.

**Editor's notes.** — Ga. L. 2015, p. 996, § 1-1/SB 65, not codified by the General

Assembly, provides that: “(a) This Act shall be known and may be cited as the ‘Debtor-Creditor Uniform Law Modernization Act of 2015.’

“(b) To promote consistency among the states, it is the intent of the General Assembly to modernize certain existing uniform laws promulgated by the Uniform Law Commission affecting debtor and creditor rights, responsibilities, and relationships and other federally recognized laws affecting such rights, responsibilities, and relationships.”

## ARTICLE 2

### CIVIL FORFEITURE OF VEHICLES AND COMPONENTS

#### 40-11-20. Items subject to civil forfeiture.

The following items are declared to be contraband and are subject to forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9:

(1) Any motor vehicle the manufacturer's vehicle identification number of which has been removed, altered, defaced, falsified, or destroyed; and

(2) Any component part of a motor vehicle the manufacturer's identification number of which has been removed, altered, defaced,

falsified, or destroyed. (Code 1981, § 40-11-20, enacted by Ga. L. 1988, p. 1948, § 1; Ga. L. 2000, p. 951, § 7-1; Ga. L. 2015, p. 693, § 3-25/HB 233.)

**The 2015 amendment**, effective July 1, 2015, added “in accordance with the procedures set forth in Chapter 16 of Title 9” at the end of the introductory language of this Code section. See editor’s notes for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 693,

§ 4-1/HB 233, not codified by the General Assembly, provides, in part, that this Act “shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure.”

#### **40-11-21. Assignment of new identification numbers prior to disposition of property.**

Prior to the property’s being sold or returned to the owner or otherwise disposed of, the Department of Revenue shall assign it a new identification number. If the property is to be returned to the owner, the court shall order that such return is conditioned on the owner paying the expenses relating to the civil forfeiture, including the expenses of maintenance of custody, advertising, and court costs. (Code 1981, § 40-11-24, enacted by Ga. L. 1988, p. 1948, § 1; Ga. L. 2000, p. 951, § 7-1; Ga. L. 2005, p. 334, § 21-7/HB 501; Code 1981, § 40-11-21, as redesignated by Ga. L. 2015, p. 693, § 3-25/HB 233.)

**The 2015 amendment**, effective July 1, 2015, redesignated former Code Section 40-11-24 as present Code Section 40-11-21; and added the second sentence in this Code section. See editor’s notes for applicability.

**Editor’s notes.** — Ga. L. 2015, p. 693,

§ 4-1/HB 233, not codified by the General Assembly, provides, in part, that this Act “shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure.”

#### **40-11-22 through 40-11-24.**

Repealed by Ga. L. 2015, p. 693, § 3-25/HB 233, effective July 1, 2015.

**Editor’s notes.** — These Code sections were based on Code 1981, §§ 40-11-22, 40-11-23, enacted by Ga. L. 1988, p. 1948, § 1; Ga. L. 2000, p. 951, § 7-1.

Ga. L. 2015, p. 693, § 3-25/HB 233, effective July 1, 2015, renumbered former Code Section 40-11-24 as present Code Section 40-11-21.

## CHAPTER 13

# PROSECUTION OF TRAFFIC OFFENSES

### Article 2

#### Arrests, Trials, and Appeals

Sec.

40-13-22. Jurisdiction over offenses under Code Section 40-2-8.

## ARTICLE 2

### ARRESTS, TRIALS, AND APPEALS

#### 40-13-22. Jurisdiction over offenses under Code Section 40-2-8.

(a) Notwithstanding any provision of the law to the contrary, any person, firm, or corporation charged with an offense under Code Section 40-2-8 may be tried in any municipal court of any municipality if the offense occurred within the corporate limits of such municipality. Such courts are granted the jurisdiction to try and dispose of such cases. The jurisdiction of such courts shall be concurrent with the jurisdiction of any other courts within the county having jurisdiction to try and dispose of such cases. Any fines and bond forfeitures arising from the prosecution of such cases shall be retained by the municipality and shall be paid into the treasury of such municipality. Any person, firm, or corporation charged with any offense under this Code section shall be entitled to request to have the case against him transferred to the court having general misdemeanor jurisdiction in the county wherein the alleged offense occurred.

(b) Nothing in this Code section shall be construed to give any municipality the right to impose a fine or punish by imprisonment in excess of the limits as set forth in the municipality's charter. (Ga. L. 1931, p. 213, § 2; Code 1933, § 68-9901; Ga. L. 1977, p. 1039, § 1; Ga. L. 1987, p. 3, § 40; Ga. L. 2015, p. 693, § 3-32/HB 233.)

**The 2015 amendment**, effective July 1, 2015, substituted "fines and bond forfeitures" for "fines and forfeitures" near the middle of subsection (a). See editor's notes for applicability.

**Editor's notes.** — Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General

Assembly, provides, in part, that this Act "shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

## CHAPTER 14

# USE OF SPEED DETECTION AND TRAFFIC-CONTROL SIGNAL MONITORING DEVICES

### Article 2

#### Speed Detection Devices

Sec.

40-14-11. Investigations by commis-

sioner of public safety; issuance of order suspending or revoking permit; ratio of speeding fines to agency's budget.

## ARTICLE 2

### SPEED DETECTION DEVICES

#### 40-14-11. Investigations by commissioner of public safety; issuance of order suspending or revoking permit; ratio of speeding fines to agency's budget.

(a) Upon a complaint being made to the commissioner of public safety that any county, municipality, college, or university is employing speed detection devices for purposes other than the promotion of the public health, welfare, and safety or in a manner which violates this chapter or violates its speed detection device permit, the commissioner or the commissioner's designee is authorized and empowered to conduct an investigation into the acts and practices of such county, municipality, college, or university with respect to speed detection devices. If, as a result of this investigation, the commissioner or the commissioner's designee finds that there is probable cause to suspend or revoke the speed detection device permit of such county, municipality, college, or university, he or she shall issue an order to that effect.

(b) Upon the suspension or revocation of any speed detection device permit for the reasons set forth in this Code section, the commissioner of public safety shall notify the executive director of the Georgia Peace Officer Standards and Training Council of the action taken.

(c) Upon receipt from the executive director of the Georgia Peace Officer Standards and Training Council that an officer's certification to operate speed detection devices has been withdrawn or suspended pursuant to Code Section 35-8-12, the commissioner of public safety or the commissioner's designee shall suspend the speed detection device permit for the employing agency. The period of suspension or revocation shall be consistent with the action taken by the Georgia Peace Officer Standards and Training Council.

(d) There shall be a rebuttable presumption that a law enforcement agency is employing speed detection devices for purposes other than the

promotion of the public health, welfare, and safety if the fines levied based on the use of speed detection devices for speeding offenses are equal to or greater than 35 percent of a municipal or county law enforcement agency's budget. For purposes of this Code section, fines collected for citations issued for violations of Code Section 40-6-180 shall be included when calculating total speeding fine revenue for the agency; provided, however, that fines for speeding violations exceeding 20 miles per hour over the established speed limit shall not be considered when calculating total speeding fine revenue for the agency. (Ga. L. 1968, p. 425, § 8; Ga. L. 1977, p. 800, § 1; Ga. L. 1989, p. 586, § 1; Ga. L. 1996, p. 1281, § 11; Ga. L. 1999, p. 1227, § 3; Ga. L. 2015, p. 1064, § 2/SB 134.)

**The 2015 amendment**, effective July 1, 2015, substituted the present provisions of subsection (d) for the former provisions, which read: "There shall be a rebuttable presumption that a law enforcement agency is employing speed detection devices for purposes other than the promotion of the public health, welfare, and safety if the fines levied based on the

use of speed detection devices for speeding offenses are equal to or greater than 40 percent of that law enforcement agency's budget; provided, however, that fines for speeding violations exceeding 17 miles per hour over the established speed limit shall not be considered when calculating total speeding fine revenue for the agency."

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## CHAPTER 16

### DEPARTMENT OF DRIVER SERVICES

Sec.

40-16-7. Budget of department.

#### 40-16-7. Budget of department.

(a) The department shall be a budget unit to which funds may be appropriated as provided in the "Budget Act," Part 1 of Article 4 of Chapter 12 of Title 45. The department shall be an independent and distinct department of state government. The duties of the department shall be performed by that department and not by any other agency of state government, and the department shall not perform the duties of any other agency of state government. The position of commissioner of driver services shall be a separate and distinct position from any other position in state government. The duties of the commissioner shall be performed by the commissioner and not by any other officer of state government, and the commissioner shall not perform the duties of any other officer of state government.

(b) Appropriations for functions transferred to and from the Department of Motor Vehicle Safety and other departments may be trans-

ferred to and from such departments as provided for in Code Section 45-12-90, relating to disposition of appropriations for duties, purposes, and objects which have been transferred. Personnel, equipment, and facilities previously employed for such transferred functions shall likewise be transferred to the appropriate departments. Contracts relating to functions transferred to and from the Department of Motor Vehicle Safety and other departments, and any rights of renewal under such contracts, shall also be transferred to the appropriate departments. Any disagreement between such departments as to any such transfers shall be determined by the Governor.

(c) Except as specifically provided otherwise by law, all fines and bond forfeitures collected for criminal violations cited by the department's investigators shall, after deduction from the total fine or forfeiture of the amounts due the Peace Officers' Annuity and Benefit Fund and the Sheriffs' Retirement Fund of Georgia and any other deductions specified by law, be paid by the clerk of the court into the fine and bond forfeiture fund of the county treasurer in the same manner and subject to the same rules of distribution as other fines and bond forfeitures. (Code 1981, § 40-16-7, enacted by Ga. L. 2000, p. 951, § 1-1; Ga. L. 2005, p. 334, § 1-1/HB 501; Ga. L. 2015, p. 693, §§ 3-32, 3-33/HB 233.)

**The 2015 amendment**, effective July 1, 2015, in subsection (c), substituted "fines and bond forfeitures" for "fines and forfeitures" twice and substituted "fine and bond forfeiture fund" for "fine and forfeiture fund." See editor's notes for applicability.

**Editor's notes.** — Ga. L. 2015, p. 693,

§ 4-1/HB 233, not codified by the General Assembly, provides, in part, that this Act "shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."



